

ERIC LARSON 4/8/2019

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<p>1 UNITED STATES DISTRICT COURT 2 EASTERN DISTRICT OF MISSOURI 3 EASTERN DIVISION 4 5 MALEEHA AHMAD, ET AL., ) 6 ) 7 Plaintiffs, ) 8 vs. ) Case No. 4:17-CV-2455-CDP 9 ) 10 CITY OF ST. LOUIS, ) 11 MISSOURI, ) 12 ) 13 Defendant. ) 14 15 16 17 DEPOSITION OF ERIC LARSON 18 TAKEN ON BEHALF OF THE PLAINTIFFS 19 APRIL 8, 2019 20 21 22 23 24 25</p> <p style="text-align: center;">Exhibit B</p>	<p>1 EXHIBITS 2 NO. DESCRIPTION PAGE 3 Exhibit 9 Picture taken from the 4 Washington and Tucker location 128 5 Exhibit 10 10/11/17 email from Carl 6 Filler with attached Scope 7 of Work for Critical Incident Review document 154 8 9 Exhibit 11 Operational Planning, 10 Major Event - After Action Critique 162 11 12 Exhibit 12 Chapter 574 sections of 13 the Missouri Revised Statutes 170 14 15 Exhibit 13 Metropolitan Police 16 Department, September 1, 2017, Instructions for the 17 Issuance of Warning from Police Officer Unlawful 18 Assembly, Dispersal Order 203 19 Exhibit 14 Civil Disobedience 20 Response Operations Plan relative to the expected 21 Stockley verdict dated 9/27/17 206 22 Exhibit 15 Training Course Lesson 23 Plan, Course Title: Civil Disobedience Team/7250 24 Training dated September 2014 219 25 Exhibit 16 Declaration of Charles Wall, with attached Exhibit A 223  (Exhibits attached to transcript.)</p>
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<p style="text-align: right;">Page 5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 ACLU OF MISSOURI FOUNDATION</p> <p>5 906 Olive Street, Suite 1130</p> <p>6 St. Louis, Missouri 63101</p> <p>7 (314) 652-3114</p> <p>8 by: Mr. Omri Praiss</p> <p>9 Ms. Jessie Steffan</p> <p>10 opraiss@aclu-mo.org</p> <p>11 jsteffan@aclu-mo.org</p> <p>12</p> <p>13 FOR THE DEFENDANT:</p> <p>14 OFFICE OF THE CITY COUNSELOR</p> <p>15 1200 Market Street, Room 314</p> <p>16 St. Louis, Missouri 63103</p> <p>17 (314) 621-3361</p> <p>18 by: Mr. Robert Dierker</p> <p>19 Ms. Abby Duncan</p> <p>20 Mr. Andrew Wheaton</p> <p>21 dierkerr@stlouis-mo.gov</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 7</p> <p>1 IT IS HEREBY STIPULATED AND AGREED by</p> <p>2 and between Counsel for Plaintiffs and Counsel for</p> <p>3 Defendant that this deposition may be taken by Tara</p> <p>4 Schwake, Notary Public and Certified Realtime</p> <p>5 Reporter, thereafter transcribed into typewriting,</p> <p>6 with the signature of the witness being expressly</p> <p>7 reserved.</p> <p>8 ERIC LARSON,</p> <p>9 of lawful age, having been produced, sworn, and</p> <p>10 examined on the part of Plaintiffs, testified as</p> <p>11 follows:</p> <p>12 *****</p> <p>13 (Deposition commenced at 9:58 a.m.)</p> <p>14 EXAMINATION</p> <p>15 QUESTIONS BY MR. PRAISS:</p> <p>16 <b>Q Good morning.</b></p> <p>17 A Good morning.</p> <p>18 <b>Q My name's Omri Praiss, I'm an</b></p> <p>19 <b>attorney with the ACLU and we're here today for a</b></p> <p>20 <b>deposition in a case involving -- titled Ahmad</b></p> <p>21 <b>versus City of St. Louis.</b></p> <p>22 <b>Are you familiar with that case?</b></p> <p>23 A I am.</p> <p>24 <b>Q Could you state your name for the</b></p> <p>25 <b>record?</b></p>
<p style="text-align: right;">Page 6</p> <p>1 COURT REPORTER:</p> <p>2 TARA SCHWAKE, CRR, RPR, CCR, CSR</p> <p>3 Alaris Litigation Services</p> <p>4 711 North 11th Street</p> <p>5 St. Louis, Missouri 63101</p> <p>6 (314) 644-2191</p> <p>7 1-800-280-DEPO</p> <p>8 transcripts@alarislitigation.us</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 8</p> <p>1 A For the record, my name is Eric</p> <p>2 Larson.</p> <p>3 <b>Q And if I refer to you as Mr. Larson,</b></p> <p>4 <b>is that okay?</b></p> <p>5 A That is fine.</p> <p>6 <b>Q Have you ever been deposed before?</b></p> <p>7 A I have.</p> <p>8 <b>Q How many times?</b></p> <p>9 A At least once that I'm aware of.</p> <p>10 <b>Q How recently was that?</b></p> <p>11 A That has been probably 15 years ago.</p> <p>12 <b>Q It's been a while.</b></p> <p>13 A Yes.</p> <p>14 <b>Q I'll give you a quick refresher.</b></p> <p>15 <b>Basically I'll be asking you a lot of questions</b></p> <p>16 <b>today, and we have a court reporter who is</b></p> <p>17 <b>transcribing everything. Please let me finish my</b></p> <p>18 <b>questions even when you can probably anticipate</b></p> <p>19 <b>what I'm going to ask you so that the record is</b></p> <p>20 <b>clear. I'll do the same and let you finish your</b></p> <p>21 <b>answers before I ask a new question. Is that fair?</b></p> <p>22 A It is.</p> <p>23 <b>Q If at any time I ask you a question</b></p> <p>24 <b>today that you don't understand, please ask me to</b></p> <p>25 <b>rephrase it. Otherwise, I'm going to assume you</b></p>

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<p style="text-align: right;">Page 9</p> <p>1 understood my question. Is that acceptable?</p> <p>2 A That's acceptable.</p> <p>3 Q Okay. Are you under any medication</p> <p>4 that impairs your ability to provide truthful and</p> <p>5 accurate answers today?</p> <p>6 A I am not.</p> <p>7 Q And you understand you're under oath?</p> <p>8 A I do.</p> <p>9 Q Subject to penalty of perjury?</p> <p>10 A I do.</p> <p>11 Q Wonderful. Do you understand that</p> <p>12 this is a deposition of what's titled a Rule</p> <p>13 30(b)(6) deposition where you are actually</p> <p>14 designated as the representative on behalf the City</p> <p>15 today?</p> <p>16 A I am aware of that.</p> <p>17 Q And you're going to be testifying</p> <p>18 with respect to a series of topics; you understand</p> <p>19 that?</p> <p>20 A I do.</p> <p>21 Q If you don't mind, I'll take a few</p> <p>22 minutes to get a little bit of background</p> <p>23 information about yourself, because that may impact</p> <p>24 your testimony on some topics.</p> <p>25 MR. DIERKER: Excuse me, I'm sorry to</p>	<p style="text-align: right;">Page 11</p> <p>1 to anything final at this point.</p> <p>2 MR. DIERKER: I understand.</p> <p>3 Q (BY MR. PRAISS) Very briefly, give</p> <p>4 me a summary of your employment background in</p> <p>5 chronological order if you could.</p> <p>6 A Since 1994, I have been employed by</p> <p>7 the St. Louis Metropolitan Police Department.</p> <p>8 Q And summarize for me a little bit</p> <p>9 about what positions you have held.</p> <p>10 A From essentially February 1995, I was</p> <p>11 commissioned as a police officer. I was a patrol</p> <p>12 officer in the second district until approximately</p> <p>13 September of 2004.</p> <p>14 Q Okay.</p> <p>15 A When I was transferred to the crime</p> <p>16 laboratory and began training as a firearm and tool</p> <p>17 mark examiner. Which I performed until</p> <p>18 approximately February of 2010, when I was promoted</p> <p>19 to the rank of sergeant. In 2011, I became the</p> <p>20 supervisor of the evidence technician unit. In</p> <p>21 January of 2013, I became the acting laboratory</p> <p>22 director until June of 2013, when I was promoted to</p> <p>23 the rank of lieutenant and given the title</p> <p>24 laboratory director.</p> <p>25 In September of 2015, I was promoted</p>
<p style="text-align: right;">Page 10</p> <p>1 interrupt but I would like to put on the record</p> <p>2 that originally the plan was that this 30(b)(6)</p> <p>3 would cover both the Ahmad and the Molina cases and</p> <p>4 owing to some discovery issues in Molina, this is</p> <p>5 going forward in the context of Ahmad but my</p> <p>6 understanding is that topics 4, 5, 8, 9, 10, and 11</p> <p>7 duplicate topics in the 30(b)(6) notice in the</p> <p>8 Molina case, and it's our expectation that we will</p> <p>9 not have to duplicate the testimony in Molina that</p> <p>10 is being adduced in this case.</p> <p>11 MR. PRAISS: And I appreciate your</p> <p>12 comments. I'm not sure this is the right place and</p> <p>13 I don't want to get into a debate with you. I know</p> <p>14 there was correspondence between and you Tony</p> <p>15 Rothert about that issue and I think, as you know,</p> <p>16 there are still outstanding discovery issues in</p> <p>17 Molina but I can assure you to the extent, at all</p> <p>18 possible, we have no intent of duplicating this</p> <p>19 deposition unnecessarily.</p> <p>20 MR. DIERKER: I'm confident that you</p> <p>21 don't but I felt the need to put something on the</p> <p>22 record.</p> <p>23 MR. PRAISS: That's fine, but we</p> <p>24 don't know what additional discovery we will be</p> <p>25 getting and how that will impact so I can't commit</p>	<p style="text-align: right;">Page 12</p> <p>1 to the rank of captain and transferred from the</p> <p>2 laboratory to District 5, where I remained until</p> <p>3 approximately -- I believe it was August of 2017</p> <p>4 when I was transferred to the command of</p> <p>5 investigative services, where I remained until</p> <p>6 early 2018, I think January 2018, when I was moved</p> <p>7 to be over planning and research until April of</p> <p>8 2018 when I was promoted to the rank of major, and</p> <p>9 I have been the commander/deputy commander of</p> <p>10 specialized enforcement since that time.</p> <p>11 Q Congratulation, it's been an amazing</p> <p>12 career.</p> <p>13 A Thank you.</p> <p>14 Q I can ask you a ton of questions on</p> <p>15 it but I'm going to refrain because I want to focus</p> <p>16 on the 30(b)(6) but just two I need to understand.</p> <p>17 In early January of 2018 you said you</p> <p>18 were transferred to planning and research.</p> <p>19 A Correct.</p> <p>20 Q Just explain to me a little bit of</p> <p>21 what that entails?</p> <p>22 A Essentially I was moved from</p> <p>23 investigative services where I was the captain of</p> <p>24 homicide, bomb and arson, sex crimes, the</p> <p>25 investigative units of the police department, over</p>

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<p>1 to planning and research, which is essentially the</p> <p>2 departments of research -- planning is responsible</p> <p>3 for writing special orders, researching policy,</p> <p>4 preparing our crime numbers for the FBI, and that</p> <p>5 was -- that was my function.</p> <p>6 <b>Q And you were in that position for</b></p> <p>7 <b>actually a very short time?</b></p> <p>8 A For a very short time.</p> <p>9 <b>Q Okay. And then you were transferred</b></p> <p>10 <b>-- you were promoted to major; correct?</b></p> <p>11 A Yes.</p> <p>12 <b>Q And if I understood correctly, you</b></p> <p>13 <b>were in charge of specialized enforcement?</b></p> <p>14 A I was the commander of specialized</p> <p>15 enforcement from April of 2018 through December of</p> <p>16 2018, and then in 2019 I became the deputy</p> <p>17 commander. We have had several department</p> <p>18 reorganizations between April of 2017 through</p> <p>19 December of 2018.</p> <p>20 <b>Q As deputy commander, it's still over</b></p> <p>21 <b>specialized enforcement?</b></p> <p>22 A Correct.</p> <p>23 <b>Q So my question is, what does the term</b></p> <p>24 <b>specialized enforcement, what does that entail?</b></p> <p>25 A Essentially specialized enforcement</p>	<p>1 some direction from the courts.</p> <p>2 <b>Q Since the Stockley protests, is it</b></p> <p>3 <b>your testimony the City has done -- made no effort</b></p> <p>4 <b>to evaluate the current special orders and policies</b></p> <p>5 <b>in effect?</b></p> <p>6 A No, I would not say that.</p> <p>7 <b>Q So I misunderstood you. So again,</b></p> <p>8 <b>during the time period that you were there, help me</b></p> <p>9 <b>understand what efforts were made by the Department</b></p> <p>10 <b>of Planning and Research to, I'll broadly</b></p> <p>11 <b>characterize as this, to evaluate modifying</b></p> <p>12 <b>policies, writing new policies, or looking at</b></p> <p>13 <b>lessons learned from the Stockley protest. I'm</b></p> <p>14 <b>trying to make is as broad as possible.</b></p> <p>15 A If you're trying to make it as broad</p> <p>16 as possible, we're discussing several areas that</p> <p>17 are outside the scope of planning and research.</p> <p>18 Planning and research is an area that generally</p> <p>19 works at the direction of the Chief of Police or</p> <p>20 senior command. So a request has to come from that</p> <p>21 office to the planning and research unit to perform</p> <p>22 functions related to policy reviews, changes in</p> <p>23 policy, changes in direction on that. And when</p> <p>24 we're talking about policy, we're talking about all</p> <p>25 department policy.</p>
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<p>1 are primarily uniformed members of the department</p> <p>2 who are not in district assignment. So I'm in</p> <p>3 charge of, as the deputy commander, I report to a</p> <p>4 colonel, I have a captain that reports to me, but</p> <p>5 the units are SWAT, K-9, aviation, traffic,</p> <p>6 commercial motor vehicle inspection, special</p> <p>7 operations, which relates primarily to anti-crime</p> <p>8 and auto theft. Our drug enforcement and</p> <p>9 interdiction units, public transportation, and park</p> <p>10 rangers. I think that's everybody.</p> <p>11 <b>Q Altogether, how many officers report</b></p> <p>12 <b>to you?</b></p> <p>13 A I think it's somewhere about 96 to a</p> <p>14 hundred.</p> <p>15 <b>Q During the period when you were in</b></p> <p>16 <b>charge of planning and research the first four</b></p> <p>17 <b>months of 2018, you mentioned that you were working</b></p> <p>18 <b>on writing special orders and researching policy?</b></p> <p>19 A To some extent, yes.</p> <p>20 <b>Q During that time, did you do any work</b></p> <p>21 <b>that related in any way to what had occurred in the</b></p> <p>22 <b>Stockley protests?</b></p> <p>23 A No. Because the Stockley protest is</p> <p>24 the subject of litigation and so we won't write</p> <p>25 policy until the litigation is complete or we have</p>	<p>1 So I mean, there's something</p> <p>2 somewhere along the lines of 3,000 pages of</p> <p>3 department policy. So to say we have made no</p> <p>4 changes in policy during that time, I don't believe</p> <p>5 would be fair. To say that we didn't talk or</p> <p>6 discuss about things related to protests or protest</p> <p>7 activity, I can't say we did or I can't say that we</p> <p>8 did not. We may have, but because of the ongoing</p> <p>9 litigation, no concrete direction had been</p> <p>10 determined on which things would need to be</p> <p>11 modified or not be modified.</p> <p>12 <b>Q Let me follow up a little bit. If I</b></p> <p>13 <b>understood correctly with respect to planning and</b></p> <p>14 <b>research, you indicate that the Chief of Police</b></p> <p>15 <b>would have to make a request of the department to</b></p> <p>16 <b>investigate something?</b></p> <p>17 A Or a senior command, so a colonel,</p> <p>18 assistant chief.</p> <p>19 <b>Q To your knowledge, since September of</b></p> <p>20 <b>2017, has the Chief of Police made any requests to</b></p> <p>21 <b>the planning and research group, department, that</b></p> <p>22 <b>related to the Stockley protests?</b></p> <p>23 A I believe the assistant chief</p> <p>24 indicated some information which were -- which was</p> <p>25 related to I believe Judge Perry issued an order</p>

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<p style="text-align: right;">Page 17</p> <p>1 related to what we would be allowed to do or not do</p> <p>2 as far as engaging in the dispersement of</p> <p>3 individuals during protest activity. The bulk of</p> <p>4 that information is already incorporated into a</p> <p>5 special order. That Special Order is 1-01, Section</p> <p>6 XIII.</p> <p>7 But as far as any hard policy</p> <p>8 changes, I can tell you there have been none that</p> <p>9 have been put into effect.</p> <p>10 <b>Q</b> And I understand you've told me that</p> <p>11 now twice, that there hasn't been some changes</p> <p>12 because of litigation. My question, and I still</p> <p>13 don't think you answered it, is, to your knowledge,</p> <p>14 has the Chief of Police or somebody else below him</p> <p>15 made a specific request of the planning and</p> <p>16 research department through an email or other</p> <p>17 communication, saying, I instruct to you</p> <p>18 investigate and look at policies that in any way</p> <p>19 relate to what happened in the Stockley protests?</p> <p>20 <b>A</b> I would say to the best of my</p> <p>21 knowledge, no.</p> <p>22 <b>Q</b> Thank you. I appreciate that answer.</p> <p>23 Mark this.</p> <p>24 (Plaintiffs' 30(b)(6) Exhibit 1</p> <p>25 marked for identification by the court reporter.)</p>	<p style="text-align: right;">Page 19</p> <p>1 <b>Q</b> Okay. You had mentioned in your</p> <p>2 testimony referring to the assistant chief</p> <p>3 providing some communication relating to the</p> <p>4 injunction entered by the court, preliminary</p> <p>5 injunction.</p> <p>6 <b>A</b> Yes.</p> <p>7 <b>Q</b> Was this the communication you were</p> <p>8 referring to?</p> <p>9 <b>A</b> I believe so.</p> <p>10 <b>Q</b> Okay. And that's what I wanted to</p> <p>11 confirm. Other than this communication -- strike</p> <p>12 that.</p> <p>13 To whom this was communication sent?</p> <p>14 <b>A</b> It was sent to all members of the</p> <p>15 SLMPD.</p> <p>16 <b>Q</b> So all police officers?</p> <p>17 <b>A</b> If it went to SLMPD.org, it went to</p> <p>18 all employees of the Metropolitan Police</p> <p>19 Department.</p> <p>20 <b>Q</b> Other than this email telling all</p> <p>21 members of the St. Louis Metropolitan Police</p> <p>22 Department to familiarize themselves with the order</p> <p>23 issued by the judge, are you aware of any other</p> <p>24 steps taken by the St. Louis Metropolitan Police</p> <p>25 Department to train or inform the police officers</p>
<p style="text-align: right;">Page 18</p> <p>1 <b>Q</b> (BY MR. PRAISS) Mr. Larson, you have</p> <p>2 Exhibit 1?</p> <p>3 <b>A</b> I do.</p> <p>4 <b>Q</b> You said something a few seconds ago</p> <p>5 in your answer that prompted me to think of this</p> <p>6 exhibit, so I figured I'd just real quickly ask a</p> <p>7 couple questions about it.</p> <p>8 Do you see this as an email that was</p> <p>9 sent on November 16, 2017, by Lawrence O'Toole?</p> <p>10 <b>A</b> I do.</p> <p>11 <b>Q</b> And it indicates it has an attachment</p> <p>12 to it which is the Ahmad Preliminary Injunction, I</p> <p>13 believe it's referring to the order that was issued</p> <p>14 by the judge in this case?</p> <p>15 <b>A</b> Correct.</p> <p>16 <b>Q</b> Okay. Have you had an opportunity at</p> <p>17 any time since November of 2017 to review that</p> <p>18 order?</p> <p>19 <b>A</b> Let me think. I have -- I obviously</p> <p>20 received this email because it's directed to the</p> <p>21 SLMPD. I would have printed and made a copy of</p> <p>22 this and reviewed it at around the time that it was</p> <p>23 issued. I had not reviewed this order prior to our</p> <p>24 deposition. We may have discussed it during</p> <p>25 settlement meetings that I was a part of.</p>	<p style="text-align: right;">Page 20</p> <p>1 of the terms of the injunction?</p> <p>2 <b>MR. DIERKER:</b> I think I have to</p> <p>3 object to the form of that question because it</p> <p>4 could be calling for privileged communications.</p> <p>5 <b>Q</b> (BY MR. PRAISS) Let me make it clear</p> <p>6 to you. At no point today do I want you to tell me</p> <p>7 about communications that attorneys had with you or</p> <p>8 with police officers; okay? To the extent there</p> <p>9 are, I'm not interested, I'm not entitled to those.</p> <p>10 Separate from that, my question is,</p> <p>11 to your knowledge, other than this one short little</p> <p>12 email that we have in front us here that was sent</p> <p>13 on November 16, 2017, are you aware of any other</p> <p>14 communications or efforts undertaken by the St.</p> <p>15 Louis Metropolitan Police Department to train</p> <p>16 police officers with respect to the substance of</p> <p>17 the preliminary injunction issued by the court in</p> <p>18 this case?</p> <p>19 <b>A</b> I am not.</p> <p>20 (Plaintiffs' 30(b)(6) Exhibit 2</p> <p>21 marked for identification by the court reporter.)</p> <p>22 <b>Q</b> (BY MR. PRAISS) Mr. Larson, I hand</p> <p>23 you what's been marked Exhibit 2, and this is a</p> <p>24 copy of the Fourth Amended Rule 30(b)(6) Deposition</p> <p>25 Notice that was issued by us in this case to the</p>

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<p>1 City. You're familiar with this exhibit?</p> <p>2 A I am.</p> <p>3 Q Obviously, this is the fourth one,</p> <p>4 which means there was an original one and a first,</p> <p>5 second, and third, potentially, I assume all of</p> <p>6 those.</p> <p>7 Do you recall the first time you saw</p> <p>8 any form of this depo notice, deposition notice?</p> <p>9 A I do not recall the first time I saw</p> <p>10 it. I don't know what version I may have seen, but</p> <p>11 in preparation for this deposition, I saw and</p> <p>12 reviewed a 30(b)(6) request.</p> <p>13 Q When was the first time, your best</p> <p>14 estimate of when you saw it? Was it yesterday or a</p> <p>15 month ago? That's what I'm trying to get at.</p> <p>16 A No, probably November, December.</p> <p>17 Q Gotcha. Thank you. Did you review</p> <p>18 it?</p> <p>19 A I did.</p> <p>20 Q I think one thing I was going to put</p> <p>21 on the record also that I believe there is one</p> <p>22 topic and that's the topic number 3 that has been</p> <p>23 covered and we do not plan to cover that today,</p> <p>24 just so you know.</p> <p>25 If you go to the second page of this</p>	<p>1 A Yes.</p> <p>2 Q Okay. There is, at the end of this</p> <p>3 notice, if you notice, a Request for Production on</p> <p>4 the last page?</p> <p>5 Do you see that?</p> <p>6 A Yes.</p> <p>7 Q Did you rely on any documents in</p> <p>8 preparing for today's deposition?</p> <p>9 A I reviewed documents related to</p> <p>10 today's deposition.</p> <p>11 MR. PRAISS: Okay. A question for</p> <p>12 counsel. Have all of those documents been produced</p> <p>13 to the plaintiffs in this litigation?</p> <p>14 MR. DIERKER: To the best of our</p> <p>15 knowledge, all of the documents on which the</p> <p>16 witness relied have been produced.</p> <p>17 MR. PRAISS: Thank you. That's what</p> <p>18 I need to know.</p> <p>19 Q (BY MR. PRAISS) And you notice now</p> <p>20 the deposition notice has -- this Fourth Amended</p> <p>21 one has 25 different topics?</p> <p>22 A Yes.</p> <p>23 Q And you understand that you have been</p> <p>24 designated as the representative of the City of St.</p> <p>25 Louis to testify about each of these topics except</p>
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<p>1 exhibit, do you see there is a heading Relevant</p> <p>2 Time Period and Definitions?</p> <p>3 A Okay.</p> <p>4 Q Can we agree that, you know, when I</p> <p>5 use the reference "the City of St. Louis," or even</p> <p>6 just the abbreviation of "the City," that this</p> <p>7 definition that's here for the City of St. Louis</p> <p>8 would apply?</p> <p>9 A Yes.</p> <p>10 Q Okay. I don't want to keep saying a</p> <p>11 long, convoluted definition each time. And when I</p> <p>12 say "Stockley verdict protest," do you agree with</p> <p>13 the definition that's here; is that acceptable?</p> <p>14 A Yes.</p> <p>15 Q And the term "prior protests" that's</p> <p>16 defined here, can we agree that definition is going</p> <p>17 to apply today?</p> <p>18 A Yes.</p> <p>19 Q And then there's a definition for</p> <p>20 "chemical agents."</p> <p>21 Do you see that?</p> <p>22 A I do.</p> <p>23 Q Can we agree that definition will</p> <p>24 apply except in those situations where I make it</p> <p>25 clear to you that it shouldn't apply?</p>	<p>1 for topic 3?</p> <p>2 A I do.</p> <p>3 Q How many hours in total would you</p> <p>4 estimate you spent preparing for this deposition?</p> <p>5 A That's difficult to say. Somewhere</p> <p>6 between 8 and 16 over the course of several weeks,</p> <p>7 several months, since November, and I would also</p> <p>8 indicate that because there are apparently two</p> <p>9 cases that are very similar, I reviewed a lot of</p> <p>10 material not all specific to Ahmad. Some were</p> <p>11 specific to another case.</p> <p>12 Q The other case we're referring to,</p> <p>13 Molina?</p> <p>14 A Correct.</p> <p>15 Q But in total in the past few weeks,</p> <p>16 since the first time you've seen this deposition or</p> <p>17 some prior version, your estimate is between 8 and</p> <p>18 16 hours?</p> <p>19 A At least, if not more.</p> <p>20 Q Okay. Let me start with trying to</p> <p>21 narrow the universe of people you may have met</p> <p>22 with. Excluding any attorneys, did you meet</p> <p>23 individually with anybody to prepare for today's</p> <p>24 deposition?</p> <p>25 A Not outside individuals who are in</p>

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<p>1 our law department.</p> <p>2 <b>Q Let me start with this one. Did you</b></p> <p>3 <b>have meetings where attorneys were present?</b></p> <p>4 A I did.</p> <p>5 <b>Q In those meetings, were there any</b></p> <p>6 <b>individuals who are not attorneys also present?</b></p> <p>7 A Yes.</p> <p>8 <b>Q Who were those individuals?</b></p> <p>9 A I met with Sergeant Charles Wall, who</p> <p>10 is currently detached to our law department.</p> <p>11 <b>Q Yes. What does it mean when you say</b></p> <p>12 <b>"detached"?</b></p> <p>13 A His assignment is temporarily, he is</p> <p>14 temporarily assigned to the law department from his</p> <p>15 parent unit, and I'm not sure where that parent</p> <p>16 unit was.</p> <p>17 <b>Q Is my understanding correct that he</b></p> <p>18 <b>was assigned to the law department to assist in</b></p> <p>19 <b>connection with the ongoing litigation?</b></p> <p>20 A That is my understanding.</p> <p>21 <b>Q Other than Charles Wall, can you</b></p> <p>22 <b>think of any other individuals you met with in</b></p> <p>23 <b>connection with any meetings with attorneys in</b></p> <p>24 <b>preparing for today's deposition?</b></p> <p>25 A No. They provided materials, I</p>	<p>1 have done nothing else to prepare for the</p> <p>2 deposition?</p> <p>3 A No, not that I'm aware of.</p> <p>4 <b>Q Let's start, topic number 1, sir.</b></p> <p>5 A Okay.</p> <p>6 <b>Q Topic number 1 states, "The manner by</b></p> <p>7 <b>which the City of St. Louis video recorded the</b></p> <p>8 <b>Stockley Verdict Protests."</b></p> <p>9 <b>Do you see that?</b></p> <p>10 A I do.</p> <p>11 <b>Q As of September 2017, did the City</b></p> <p>12 <b>have any rules or requirements relating to video or</b></p> <p>13 <b>audio recording of police response to public</b></p> <p>14 <b>protests?</b></p> <p>15 A Well, I want to make sure I'm</p> <p>16 answering this as completely as possible. In</p> <p>17 general, there are several different ways that we</p> <p>18 document protest activity. When we have a large</p> <p>19 event, something that we know is going to occur,</p> <p>20 something like the Stockley protest, we put an</p> <p>21 operations order into effect.</p> <p>22 As part of that operations order,</p> <p>23 there are officers who are assigned as</p> <p>24 Documentation Team members. Those members will</p> <p>25 have either still cameras or video cameras at their</p>
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<p>1 reviewed materials, and we had discussions about</p> <p>2 those materials.</p> <p>3 <b>Q So the only non-attorney that you met</b></p> <p>4 <b>in preparing for today's deposition is Charles</b></p> <p>5 <b>Wall; correct?</b></p> <p>6 A As far as I can recall.</p> <p>7 <b>Q And how long do you think met with</b></p> <p>8 <b>Charles Wall?</b></p> <p>9 A We had two or three different</p> <p>10 meetings, probably no more than, total, an hour and</p> <p>11 a half.</p> <p>12 <b>Q Okay. Of the 8 to 16 hours that you</b></p> <p>13 <b>said you estimate you spent preparing, what</b></p> <p>14 <b>percentage of that would you say was meeting with</b></p> <p>15 <b>attorneys versus you meeting by yourself?</b></p> <p>16 A Probably half and half, perhaps.</p> <p>17 Maybe a little different -- I spent a lot of time</p> <p>18 -- obviously, anything counsel forwarded to me for</p> <p>19 review, I reviewed. So I spent a lot of time</p> <p>20 reading documents, I refreshed myself with a lot of</p> <p>21 the material so I would be adequately prepared to</p> <p>22 discuss these topics.</p> <p>23 <b>Q Is it fair to say that other than the</b></p> <p>24 <b>meetings you have had with attorneys, the meeting</b></p> <p>25 <b>with Mr. Charles Wall, and your own efforts, you</b></p>	<p>1 disposal to record protester and police activity</p> <p>2 relative to the event being monitored.</p> <p>3 We also have a Real Time Crime Center</p> <p>4 that has cameras located throughout the City which</p> <p>5 may capture incidents on video.</p> <p>6 We also have an intelligence division</p> <p>7 that may use video cameras to document certain</p> <p>8 aspects of their investigation or their monitoring</p> <p>9 of activities, and I believe in, relative to like</p> <p>10 the Stockley incident, some members of our Bicycle</p> <p>11 Response Team may have had cameras.</p> <p>12 <b>Q I appreciate that and I want to cover</b></p> <p>13 <b>that information in greater detail but I still want</b></p> <p>14 <b>to go back to my question. Is there something in</b></p> <p>15 <b>writing that I'm not aware of that, where the City</b></p> <p>16 <b>has laid out specific policies, rules, with respect</b></p> <p>17 <b>to video or audio recording of a police response to</b></p> <p>18 <b>a public protest?</b></p> <p>19 A No, not specifically, other than what</p> <p>20 we've described in the operations order.</p> <p>21 <b>Q Okay. As a matter of policy, does</b></p> <p>22 <b>the City believe it's important to attempt to video</b></p> <p>23 <b>record police response to public protest?</b></p> <p>24 A From a matter of policy, we believe</p> <p>25 it's important to document the activities that we</p>

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<p>1 take during these incidents.</p> <p>2 <b>Q Okay. As a matter of policy, does</b></p> <p>3 <b>the City believe it's important to attempt to video</b></p> <p>4 <b>record the use of chemical agents by police in</b></p> <p>5 <b>response to public protests?</b></p> <p>6 A Can you give me that again?</p> <p>7 <b>Q Sure. As a matter of policy, does</b></p> <p>8 <b>the City believe it is important to video record</b></p> <p>9 <b>the use of chemical agents by police in response to</b></p> <p>10 <b>public protests?</b></p> <p>11 A To the best of my knowledge, we have</p> <p>12 no order that requires us to document by a video</p> <p>13 the actual deployment of chemical agents.</p> <p>14 <b>Q Okay. You gave me a list of</b></p> <p>15 <b>different ways that the City can video record</b></p> <p>16 <b>public protests. You mentioned Documentation Team</b></p> <p>17 <b>members; right?</b></p> <p>18 A Mm-hmm.</p> <p>19 <b>Q Realtime Crime Center, the</b></p> <p>20 <b>intelligence division, and the Bicycle Team, who</b></p> <p>21 <b>may also have cameras; correct?</b></p> <p>22 A Correct.</p> <p>23 <b>Q Are there any others?</b></p> <p>24 A Well, insofar as the department</p> <p>25 issues cameras to patrol supervisors for the</p>	<p>1 video recording capabilities and I guess my</p> <p>2 question to you is, from the City's perspective, is</p> <p>3 there a reason not to include video capability on a</p> <p>4 Bear that finds itself in positions where it</p> <p>5 deploys chemical munitions and, as a matter of</p> <p>6 policy, would be advisable to record those, no</p> <p>7 different than all the other ways that the City</p> <p>8 currently uses?</p> <p>9 A It might be advantageous for us to do</p> <p>10 that in the future. I don't think there's a</p> <p>11 deliberate reason we don't have it on there other</p> <p>12 than it probably isn't equipped with that</p> <p>13 capability and to equip it with that would be a</p> <p>14 monetary cost, but it's certainly something I think</p> <p>15 that's worth looking into.</p> <p>16 <b>Q Are you aware of anyone suggesting</b></p> <p>17 <b>that that be done since the Stockley protest?</b></p> <p>18 <b>Let's start with that time period.</b></p> <p>19 A No, not to my knowledge, I don't</p> <p>20 believe so.</p> <p>21 <b>Q Okay. The first mechanism you</b></p> <p>22 <b>mention is the Documentation Team?</b></p> <p>23 A Mm-hmm.</p> <p>24 <b>Q Was the Documentation Team deployed</b></p> <p>25 <b>in connection with the Stockley protest?</b></p>
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<p>1 documentation of regular type of crime incidents,</p> <p>2 you know, there's evidence that needs to be</p> <p>3 recovered, things of that nature, but not -- but</p> <p>4 that's not specifically related to First Amendment</p> <p>5 protests.</p> <p>6 <b>Q Okay. Any other ways?</b></p> <p>7 A Not that I'm aware of.</p> <p>8 <b>Q Does the helicopter have capability</b></p> <p>9 <b>to video record?</b></p> <p>10 A Yes. The -- well, I take that back.</p> <p>11 The helicopter has certain technological abilities,</p> <p>12 I believe recording is one of them but I can't</p> <p>13 confirm that.</p> <p>14 <b>Q Has the City at any time considered</b></p> <p>15 <b>including some video recording capabilities on the</b></p> <p>16 <b>Bear?</b></p> <p>17 A The Bear may have its own type of --</p> <p>18 I'm not intimately familiar with the mechanics of</p> <p>19 the Bear. I know it has certain ability. I know</p> <p>20 it has a PA, some other things. I don't know that</p> <p>21 it has video and, to the best of my knowledge, we</p> <p>22 haven't ever discussed putting a camera on the</p> <p>23 Bear.</p> <p>24 <b>Q Okay. My understanding from the</b></p> <p>25 <b>Molina depositions is the Bear does not have any</b></p>	<p>1 A It was.</p> <p>2 <b>Q And did it record events from the</b></p> <p>3 <b>Stockley protest?</b></p> <p>4 A To the best of my knowledge, it did.</p> <p>5 And just as a point clarification, there are</p> <p>6 several Documentation Teams relative to the detail.</p> <p>7 They are -- each CDT unit is I believe supposed to</p> <p>8 have a Documentation Team, so we had several out at</p> <p>9 -- roughly at the same time, doing similar</p> <p>10 functions.</p> <p>11 <b>Q And those members, explain to me</b></p> <p>12 <b>again what is their purpose when they go out?</b></p> <p>13 A Their purpose is to primarily</p> <p>14 document police and citizen interaction during the</p> <p>15 course of a First Amendment protest. They also are</p> <p>16 responsible for photographing the arresting officer</p> <p>17 and the arrested subject prior to the arrested</p> <p>18 subject being transported in the interest of</p> <p>19 documenting, and then they have a role in the</p> <p>20 report preparation aspect.</p> <p>21 <b>Q You say "report preparation." What</b></p> <p>22 <b>report are you referring to?</b></p> <p>23 A In general, there is, when incidents</p> <p>24 transpire and then arrest is made, a police report</p> <p>25 is prepared, and the Documentation Team participate</p>

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<p style="text-align: right;">Page 33</p> <p>1 in that.</p> <p>2 <b>Q I think you testified that each CDT</b></p> <p>3 <b>unit has its own Documentation Team. What is a CDT</b></p> <p>4 <b>unit, just to make sure I'm clear?</b></p> <p>5 A For clarification, Civil Disobedience</p> <p>6 Team.</p> <p>7 <b>Q That's what I assumed but I wanted to</b></p> <p>8 <b>make sure.</b></p> <p>9 <b>And when you say "unit," what does</b></p> <p>10 <b>that mean in connection with a CDT unit?</b></p> <p>11 A Oh, in the -- if you -- when</p> <p>12 reviewing the operations order, you'll see there</p> <p>13 will be CD Team 1 or CD Team Alpha, and then</p> <p>14 Evidence Collection Team 1. It just -- or</p> <p>15 Documentation Team 1. It's just essentially the</p> <p>16 officers that are assigned to that team, that unit,</p> <p>17 within the overall team, that has a specific</p> <p>18 function.</p> <p>19 <b>Q Do you know sitting here today how</b></p> <p>20 <b>many different Documentation Teams were assigned to</b></p> <p>21 <b>the Stockley protests?</b></p> <p>22 A I believe there were at least four</p> <p>23 because I believe we had four components to the CDT</p> <p>24 team.</p> <p>25 <b>Q Do you know if the Documentation Team</b></p>	<p style="text-align: right;">Page 35</p> <p>1 <b>individuals; correct?</b></p> <p>2 A Yes.</p> <p>3 <b>Q That would have been the purpose of</b></p> <p>4 <b>the Documentation Team to record that incident;</b></p> <p>5 <b>correct?</b></p> <p>6 A Potentially.</p> <p>7 <b>Q When the Stockley protests were</b></p> <p>8 <b>completed, how does -- how did the records, the</b></p> <p>9 <b>video records taken by the Documentation Team, get</b></p> <p>10 <b>compiled somewhere? Where are they maintained?</b></p> <p>11 <b>I'm trying to understand the next process.</b></p> <p>12 A They would -- depending on the media</p> <p>13 and how they were recorded, there's a couple of</p> <p>14 different ways that they get to our property</p> <p>15 custody section.</p> <p>16 So primarily they could be downloaded</p> <p>17 and put onto a flash drive or a disk and then</p> <p>18 entered into property custody to be held for review</p> <p>19 or trial or duplication, discovery requests.</p> <p>20 Things that would be recorded by the</p> <p>21 Real Time Crime Center would be very similar. They</p> <p>22 would be recorded, they would be held on a server,</p> <p>23 copies would be made and then forwarded to the</p> <p>24 either the prisoner -- prisoner -- property custody</p> <p>25 for holding.</p>
<p style="text-align: right;">Page 34</p> <p>1 <b>was present in connection with what's been referred</b></p> <p>2 <b>to in the public discourse as the kettle?</b></p> <p>3 A I believe they would have been</p> <p>4 present but I have no firsthand knowledge that they</p> <p>5 were present.</p> <p>6 <b>Q Do you know if the Documentation Team</b></p> <p>7 <b>-- strike that.</b></p> <p>8 <b>Do you know if a Documentation Team</b></p> <p>9 <b>was present in connection with the Luther Hall</b></p> <p>10 <b>incident?</b></p> <p>11 A I don't know at what point that the</p> <p>12 Documentation Team would have come in on that</p> <p>13 because they come in behind the CDT efforts, they</p> <p>14 are stationed behind them in rank. So I assume</p> <p>15 they would have been behind the officers in that</p> <p>16 CDT team but where their location was in connection</p> <p>17 with those specific incidents, I don't know.</p> <p>18 <b>Q Because, for example, in the Luther</b></p> <p>19 <b>Hall incident clearly there was a situation where</b></p> <p>20 <b>police officers were interacting with people</b></p> <p>21 <b>exercising their First Amendment; fair to say?</b></p> <p>22 A It's fair to say there was an</p> <p>23 incident, yeah.</p> <p>24 <b>Q And there was an interaction between</b></p> <p>25 <b>the police officers, to put it mildly, and certain</b></p>	<p style="text-align: right;">Page 36</p> <p>1 In the cases of still photos,</p> <p>2 anything that would have come off camera cards,</p> <p>3 those would have probably been submitted to our</p> <p>4 laboratory division and then held in our digital</p> <p>5 information management system.</p> <p>6 <b>Q Is there a simple way to search, if</b></p> <p>7 <b>you wanted to know, get a listing of all the video</b></p> <p>8 <b>-- I'm going to start with Documentation Team from</b></p> <p>9 <b>the Stockley protests -- that summarizes here's the</b></p> <p>10 <b>Documentation Team, here is the dates and times and</b></p> <p>11 <b>location of every video they have done, so it's</b></p> <p>12 <b>very easy to find? Like if I don't know what</b></p> <p>13 <b>happened at this intersection at 11 o'clock, I just</b></p> <p>14 <b>search through it and there it is?</b></p> <p>15 A Not necessarily, I don't believe we</p> <p>16 have a comprehensive data management system that --</p> <p>17 because it's not going into a system that way.</p> <p>18 It's going in piecemeal. The records would have</p> <p>19 been recorded and then submitted as evidence. I</p> <p>20 don't believe we have any type of that other than</p> <p>21 what the Real Time Crime Center would have related</p> <p>22 to their file storage method.</p> <p>23 <b>Q I'm going to deal with the Real Time</b></p> <p>24 <b>Crime Center in a minute. I'm still talking about</b></p> <p>25 <b>the Documentation Team. They complete the process,</b></p>

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<p style="text-align: right;">Page 37</p> <p>1 they, if I understand correctly, transfer their</p> <p>2 video recordings to the property custody section?</p> <p>3 A Yes, sir.</p> <p>4 Q And my question is, who is in charge</p> <p>5 of the property custody section back in September</p> <p>6 or November, October of 2017, let's say? If you</p> <p>7 know.</p> <p>8 A The property custody section is a</p> <p>9 unit within the police department. It reports to,</p> <p>10 I believe, the commander of auxiliary services.</p> <p>11 There is a sergeant who is in charge of the</p> <p>12 day-to-day operation of the property custody unit.</p> <p>13 At one time there was a lieutenant. I am not sure</p> <p>14 if, the time frame in question, we have a</p> <p>15 lieutenant there or not.</p> <p>16 Q And that's fine. I understand people</p> <p>17 move around quite a bit. I've gotten that</p> <p>18 impression. But regardless, whoever was in charge</p> <p>19 sometime in let's say end of September, October</p> <p>20 2017, received a significant amount of video</p> <p>21 recordings from Documentation Teams that capture</p> <p>22 the Stockley protests.</p> <p>23 My question to you is, are you just</p> <p>24 throwing them in a big basket somewhere --</p> <p>25 A No, no, no.</p>	<p style="text-align: right;">Page 39</p> <p>1 department has an incident and writes an official</p> <p>2 report, we generate a complaint number. The</p> <p>3 complaint number is a unique identifier related to</p> <p>4 that specific incident.</p> <p>5 Q And entire, all the videos recorded</p> <p>6 by the Documentation Team in connection with the</p> <p>7 Stockley protests, would they all be classified</p> <p>8 under one complaint or case number?</p> <p>9 A Not necessarily because multiple</p> <p>10 incidents might occur over the course of a time --</p> <p>11 the time period, which would have different</p> <p>12 victims, different subjects; therefore, different</p> <p>13 complaint numbers could be generated.</p> <p>14 So you might, if we're talking a</p> <p>15 series in time, since the Stockley protests</p> <p>16 occurred over multiple days, there could be</p> <p>17 multiple complaint numbers related to that --</p> <p>18 related to those incidents that occurred during a</p> <p>19 specific time frame.</p> <p>20 Q To your knowledge, if today I was</p> <p>21 looking for a specific incident, let's say I want</p> <p>22 videos taken by a Documentation Team in connection</p> <p>23 with a kettle, is there a capability by the City</p> <p>24 of St. Louis to locate that readily and produce it</p> <p>25 in litigation or to use it for its own purposes?</p>
<p style="text-align: right;">Page 38</p> <p>1 Q -- or is there any effort to</p> <p>2 document, saying this team recorded this time</p> <p>3 period, that it's --</p> <p>4 A What would have occurred is the</p> <p>5 incident would have been recorded. The record</p> <p>6 would be associated with a complaint number. The</p> <p>7 material would be conveyed to the property custody</p> <p>8 unit. Property custody would put it in its</p> <p>9 evidence tracking system by the complaint number.</p> <p>10 So all evidence related to the incident would, in</p> <p>11 theory, be in the property custody, tracking the</p> <p>12 evidence that goes to property custody, would be in</p> <p>13 their tracking software and everything that we have</p> <p>14 related to that case would be on a list from them</p> <p>15 but not specifically related to at a point in time</p> <p>16 this video, a second point in time this video, a</p> <p>17 third point in time this video. And it would be</p> <p>18 entered by the individual who submitted the</p> <p>19 evidence. So I submit evidence, it would be</p> <p>20 submitted by me under my name.</p> <p>21 Q Gotcha. You used the phrase "case</p> <p>22 and complaint." What do you mean when you say</p> <p>23 that?</p> <p>24 A The complaint number relates to the,</p> <p>25 quote, case or incident. So any time the police</p>	<p style="text-align: right;">Page 40</p> <p>1 A Yes, I believe so.</p> <p>2 Q Okay. I think you testified that</p> <p>3 there is four Documentation Teams?</p> <p>4 A Potentially. There may be more.</p> <p>5 Q Okay. There are two, I believe,</p> <p>6 identified in the OPs plan; is that correct?</p> <p>7 A Okay, yes.</p> <p>8 Q Okay. Do you know what the others</p> <p>9 are?</p> <p>10 A The potential, I was speaking of the</p> <p>11 fact that we have -- I believe there were four CDT</p> <p>12 teams out and I was under the impression that there</p> <p>13 would be one evidence team for -- one evidence</p> <p>14 collection team for each CDT team.</p> <p>15 That may not be 100 percent accurate,</p> <p>16 but I would also indicate that there are the</p> <p>17 ability of other individuals to collect evidence as</p> <p>18 well. So obviously, if there's something -- police</p> <p>19 officers have a duty to collect and preserve</p> <p>20 evidence. If there was some evidence that needed</p> <p>21 to be collected, we would do that.</p> <p>22 Q Were, to your knowledge, four</p> <p>23 different Documentation Teams deployed in</p> <p>24 connection with the Stockley protests?</p> <p>25 A I'd have to review the OPs order.</p>

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1           **Q**   Okay. You mentioned several times  
2   the Real Time Crime Center is another vehicle  
3   through which the City can record protests?  
4           A    Correct.  
5           **Q**   Okay. Where is that located?  
6           A    The center itself is located in  
7   police headquarters at 1915 Olive.  
8           **Q**   And I apologize for my ignorance.  
9   I'm learning quickly here, a steep learning curve.  
10   But is that basically capturing what -- throughout  
11   the City, there is, I assume, a capability to  
12   record what's transpiring in the City at all times?  
13           A    There are a network of cameras that  
14   are funded by police and private partnerships that  
15   are located in various areas of the City that are  
16   connected to the Real Time Crime Center and the  
17   Real Time Crime Center has the ability to review or  
18   record video from those locations, if needed.  
19           **Q**   Who is responsible for maintaining  
20   those cameras throughout the City that are  
21   providing information to the Real Time Crime  
22   Center?  
23           A    I believe it is the City's  
24   responsibility; although, I think it depends on who  
25   owns the camera as far as because I do know that

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1   we, as in the police department, have relationships  
2   with private entities that allow us access to their  
3   cameras but I believe they're responsible for the  
4   maintenance of those cameras. It's not assumed by  
5   the City.  
6           **Q**   So to the extent the camera is owned  
7   by a private entity, they're clearly responsible  
8   for maintaining their own cameras but all the  
9   cameras that are owned by the City, is it fair to  
10   say the City is responsible for maintaining them?  
11           A    I believe that would be fair to say.  
12           **Q**   Does the City, to your knowledge,  
13   utilize the services of an independent contractor  
14   to maintain the cameras to the extent they  
15   malfunction?  
16           A    When we have a vendor that we work  
17   with that is the camera platform, as I understand  
18   it, there are potential video platforms, different  
19   video platforms available for this type of unit.  
20   We use a platform, I believe it's called Genetec,  
21   and that is the platform that we utilize to -- when  
22   we have issues with our cameras. So the cameras  
23   need to be Genetec compatible, which is a system  
24   style, and that we would work with them if there  
25   was some issue with the recordings.

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1           **Q**   I apologize, maybe I'm getting  
2   confused here. Is Genetec a software or is it  
3   actually a company?  
4           A    I believe it is a company that  
5   manages software related to a camera, a hardware  
6   and software, so.  
7           **Q**   So is it your understanding that to  
8   the extent there is, let's say, either a software  
9   or hardware malfunction with a particular camera  
10   that is owned by the City, the City will contact  
11   Genetec and say there is a problem with camera X,  
12   you need to go out and repair it?  
13           A    Not necessarily. We would do our own  
14   repair if it was within our capability. If it was  
15   something that was beyond our capability, we would  
16   probably work with Genetec to resolve an issue.  
17           **Q**   Is there a particular department  
18   that's responsible for that?  
19           A    The City, I believe, has a department  
20   that maintains the cameras and they work in  
21   conjunction with the Real Time Crime Center. At  
22   one time the Real Time Crime Center did do some  
23   camera maintenance. I'm not sure what time frame  
24   they stopped doing that and the City took over  
25   relative to the merger of the City and the police

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1   department. There's been lots of changes that I  
2   may not be aware of.  
3           **Q**   Does this department that you  
4   mentioned have a name?  
5           A    I'm not sure what the City calls  
6   that.  
7           **Q**   Was that department --  
8           A    It could be --  
9           **Q**   Was that department in existence  
10   around September and October of 2017?  
11           A    I don't know, but I believe so.  
12           **Q**   Because I'm really focusing about  
13   that time period. So, hypothetically, if there was  
14   a camera that malfunctioned in, say, September of  
15   2017, and somebody in the City learned about this  
16   camera malfunction, I'm trying to understand the  
17   process of how that would be communicated to whom  
18   and such that it could be repaired.  
19           A    I would assume, as I understand it,  
20   that if we know that there is a camera  
21   malfunctioning, we bring it to the attention of the  
22   City group and they assist in getting it resolved.  
23           **Q**   Would that typically happen by  
24   communicating through email?  
25           A    I would assume it would be a phone

11 (Pages 41 to 44)

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1 call or an email notifying them.

2 **Q Would there typically be a record**

3 **showing what the repair is -- what repairs are**

4 **necessary and that the repairs have been completed?**

5 A I assume we would be notified that

6 the repairs are completed. That would be a

7 communication between the City department and the

8 Real Time Crime Center or the people that are

9 maintaining that.

10 **Q With respect to the Real Time Crime**

11 **Center, in particular focusing the time period**

12 **again of during and after the Stockley protests, it**

13 **immediately has access to all video recording**

14 **through the cameras that the City operates as well**

15 **as public -- private entities; correct?**

16 A I believe they have the capability of

17 reviewing those. They're not looking at every

18 camera that's across the City all the time.

19 **Q How are those records being retained**

20 **by the Real Crime Center?**

21 A Essentially what happens is data

22 comes in, depending on how, who owns the camera,

23 there is an overwrite period somewhere between 7

24 and 30 days. Obviously if -- in the case of

25 something like this Stockley protest where we know

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1 that there is the potential for litigation or

2 issues or things that we are going to want to look

3 at again, that information is downloaded and stored

4 on the server and the files are named, listed, and

5 it's maintained on that server pending

6 determination of do we need this or do we not need

7 it.

8 **Q To your knowledge, have all of those**

9 **records from the Real Crime Center been retained**

10 **since the Stockley protests?**

11 A To the best of my knowledge, those

12 that have been identified as pertinent have been

13 kept and retained.

14 **Q When you say those that have been**

15 **designated as pertinent, what does that mean? Were**

16 **any records excluded and destroyed relating to the**

17 **Stockley protests?**

18 A Not that I'm aware of, but as I said,

19 because the Real Time Crime Center covers the

20 entire city, those that may be outside of the

21 interest area may not have been kept for any

22 reason.

23 **Q But anything that -- any video**

24 **recording of the Stockley protests that captured**

25 **any activity relating to the protests, those, to**

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1 **the best of your knowledge, have been retained?**

2 A To the best of my knowledge, those

3 have been retained and produced.

4 **Q Is that also true with respect to the**

5 **recording done by the Documentation Team?**

6 A Yes.

7 **Q And with respect to the method in**

8 **which the Real Time Crime Center maintains its**

9 **records, is it fair to say that there's a really**

10 **easy way to identify, if I'm looking for a**

11 **particular video recording, to search for it by**

12 **date and the location of that camera?**

13 A Yes. They should be able to do that

14 for you.

15 **Q Okay. Does the City have any**

16 **specific rules, handwritten rules, or policies with**

17 **respect to the retention of video recordings**

18 **involving protests?**

19 A I don't believe we have a specific

20 retention policy related to protests specifically.

21 **Q Does it have -- is there a general**

22 **document retention policy that would cover those?**

23 A I don't believe so. I don't believe

24 we have a specific, at least from the police

25 department side, other than what we discuss related

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1 to our in car camera videos, I don't believe that

2 Real Time Crime Center has their own. They may

3 have their own policy on that written policy but I

4 don't think I've seen that as far as part of the

5 department's overall special orders.

6 **Q I'm a little perplexed and want to**

7 **make sure I'm hearing you correctly. Is it your**

8 **testimony that the City of St. Louis does not have**

9 **a document retention policy, in general?**

10 A Oh, I would never say that.

11 MR. DIERKER: Excuse me, I have to

12 object because I think you're outside the topics of

13 this 30(b)(6). But you may answer.

14 **Q (BY MR. PRAISS) I don't believe -- I**

15 **think topic number 2, if you look at it, sir,**

16 **please, Mr. Larson? "The manner by which the City**

17 **of St. Louis has retained video recordings of the**

18 **Stockley Verdict Protests."**

19 **Do you see that?**

20 A I see that.

21 **Q And when I -- when we wrote this, the**

22 **manner, at least in my mind, within the scope of it**

23 **is, the starting point is, is there a policy that**

24 **relates to the retention of video recordings**

25 **relating to the Stockley protests?**

12 (Pages 45 to 48)

ERIC LARSON 4/8/2019

<p style="text-align: right;">Page 49</p> <p>1 And if I understood you correctly,</p> <p>2 your testimony a few minutes ago is that you're not</p> <p>3 aware of anything specific dealing with the</p> <p>4 retention of videos by either let's say the</p> <p>5 Documentation Team --</p> <p>6 A Right.</p> <p>7 Q -- or the Real Crime Center --</p> <p>8 A Right.</p> <p>9 Q -- that deals with video protests; is</p> <p>10 that correct?</p> <p>11 A Well, I think we're -- we're saying</p> <p>12 the same things differently. What I am saying is,</p> <p>13 obviously, if we have evidence that relates to a</p> <p>14 complaint number, that evidence is downloaded,</p> <p>15 recorded, or held in the manners in which I've</p> <p>16 discussed going to property custody. As far as an</p> <p>17 overall, quote, City policy on the retention of</p> <p>18 video, I can't speak to that specifically.</p> <p>19 As far as a police department, i.e.,</p> <p>20 our policies related to video would be documented</p> <p>21 in either the in car camera order, because that</p> <p>22 talks about the -- and even that is downloaded to</p> <p>23 disk and submitted to property custody, as I've</p> <p>24 indicated.</p> <p>25 Q My question -- let's look at it</p>	<p style="text-align: right;">Page 51</p> <p>1 and held in evidence until the matter is resolved,</p> <p>2 adjudicated, or it's purged at some point.</p> <p>3 Q If you could look at topic 25? This</p> <p>4 says, I'll read it for the record, it's the</p> <p>5 "Circumstances surrounding the loss or destruction</p> <p>6 of the video recording produced labeled as City</p> <p>7 01152."</p> <p>8 Do you see that?</p> <p>9 A I do.</p> <p>10 Q What specific steps did you prepare</p> <p>11 to testify with respect to this topic?</p> <p>12 A It is my understanding that related</p> <p>13 to this topic there is one camera that produced two</p> <p>14 files, which apparently during the course of</p> <p>15 collection we noted that there was something wrong</p> <p>16 with the files and we released them as part of the</p> <p>17 discovery process and we discussed that there were</p> <p>18 cameras a block north and a block south of the</p> <p>19 camera in question that didn't record, and my</p> <p>20 understanding is that we're working with the</p> <p>21 vendor, Genetec, to try to recover that data. And</p> <p>22 that those files were related to two separate dates</p> <p>23 and times, so it was apparently a camera</p> <p>24 malfunction.</p> <p>25 Q Do you know where that camera is</p>
<p style="text-align: right;">Page 50</p> <p>1 differently. How long does that type of</p> <p>2 documentation have to be retained?</p> <p>3 A Until it's approved to be disposed</p> <p>4 of, which I mean, I'm not following the question.</p> <p>5 Q Let's say there's an incident,</p> <p>6 protests, and no litigation is filed. How long</p> <p>7 does the City maintain those records from the</p> <p>8 Documentation Team and the Real Time Crime Center</p> <p>9 of that protest?</p> <p>10 A If there is no complaint number</p> <p>11 generated, if there are no incidents involving an</p> <p>12 arrest, that data would probably not be kept more</p> <p>13 than, I don't know, anywhere between 7 to 30 days</p> <p>14 because we have no need for it.</p> <p>15 Q Let's assume there was one arrest of</p> <p>16 one individual because that individual, you know,</p> <p>17 did not comply with a request by an officer. At</p> <p>18 that point, is there any policy that requires the</p> <p>19 City or whereby the City maintains the records</p> <p>20 relating to that protest in the event that down the</p> <p>21 road and during the statute of limitation a lawsuit</p> <p>22 would be filed?</p> <p>23 A Individuals arrested, if there was</p> <p>24 evidence of that arrest that occurred on video, it</p> <p>25 would be downloaded, put on disk or flash drive,</p>	<p style="text-align: right;">Page 52</p> <p>1 located?</p> <p>2 A I believe it was located at 14th and</p> <p>3 Locust but feel free to correct me if I have that</p> <p>4 location wrong.</p> <p>5 Q To date, has the City been able to</p> <p>6 recover that video?</p> <p>7 A To the best of my knowledge, no, it</p> <p>8 is an ongoing process and we are working on it.</p> <p>9 Q And if I understood correctly, you</p> <p>10 are working with a vendor, i.e., Genetec?</p> <p>11 A That was information I was given.</p> <p>12 Q Is this a camera that Genetec was</p> <p>13 responsible for maintaining back at the time of the</p> <p>14 Stockley protests?</p> <p>15 A I have no knowledge of that. I don't</p> <p>16 believe they are responsible for maintaining the</p> <p>17 camera. As we discussed previously, we would only</p> <p>18 come in -- we only would contact them if it was</p> <p>19 something that we couldn't fix.</p> <p>20 Q Okay. When was the first time the</p> <p>21 City learned that the camera that recorded the</p> <p>22 video that was produced as City 01152 had</p> <p>23 malfunctioned?</p> <p>24 A I believe it was when we were</p> <p>25 compiling the information for discovery, when the</p>

13 (Pages 49 to 52)

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1 individual that was reviewing those videos found  
2 it, noted it, and released it.  
3 **Q So at no time -- at the time when**  
4 **this Stockley incident occurred around September,**  
5 **October of 2017, nobody at that point learned to**  
6 **recognize that this camera was not working?**  
7 A To the best of my knowledge, no, but  
8 that's not to say a work order wasn't put in, but I  
9 don't believe so. Nobody has given me the  
10 information that, yes, we were aware that camera  
11 was not functioning at the time of the incident.  
12 **Q And that's what I'm trying to get at**  
13 **because if I'm hearing you correctly, is it your**  
14 **testimony, as the corporate representative of the**  
15 **City today, that literally this camera has been**  
16 **inoperable and malfunctioning since September of**  
17 **2017 until just recently when somebody, in response**  
18 **to a discovery request, learned that this camera**  
19 **failed many, many months ago?**  
20 A Yeah. I don't know. You'd have to  
21 talk with someone specifically in the Real Time  
22 Crime Center --  
23 **Q I'm talking to you today because**  
24 **you're the corporate representative and that was**  
25 **your duty to make sure you were knowledgeable and**

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1 informed about it, with all due respect, Mr.  
2 Larson, and I need answers today. I don't want to  
3 go running around. That's why I do a 30(b)(6),  
4 because I need those answers from you and I would  
5 have hoped you would have done a little more  
6 research. But I'm going to keep asking questions.  
7 A You're welcome to keep asking  
8 questions.  
9 **Q To your knowledge, was a work order**  
10 **ever issued after September 2017 with respect to**  
11 **the camera that took the video City 01152?**  
12 A No.  
13 **Q How would we find if there was one?**  
14 A I would have to look into the Real  
15 Time Crime Center to see if there's any records or  
16 the City agency that we use to maintain the  
17 cameras.  
18 **Q Prior to today's deposition, what --**  
19 **is there a reason why you did not take steps to**  
20 **determine whether -- when and if a work order was**  
21 **issued with respect to this camera that**  
22 **malfunctioned back in September of 2017?**  
23 A I made an assumption that the camera  
24 is currently working. The malfunction, I don't  
25 know if it was a sporadic malfunction, a long-term

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1 malfunction, if it was repaired and corrected, I  
2 don't know. I was -- in preparation, I learned  
3 that there was two files which had been turned over  
4 that were corrupted and my investigation was to  
5 determine what we knew about those corrupted files.  
6 **Q And that's what I'm trying to figure**  
7 **out, what the City knew. So I -- specific question**  
8 **for you is, when was the first time -- strike that.**  
9 I asked you this and I'm going to ask  
10 it again, but am I correct that in preparing for  
11 today's deposition, in particular topic 25, other  
12 than learning that this particular camera  
13 malfunctioned back in September of 2017 and that  
14 somebody learned about that in connection with  
15 responding to a discovery request in this case, you  
16 have no knowledge about the circumstances of for  
17 how long this camera malfunctioned, what steps, if  
18 any, were undertaken by the City to repair it, or  
19 what steps the City engaged Genetec to repair it at  
20 any time from September '17 until the present? Is  
21 that a fair summary of things you don't have  
22 testimony about today?  
23 A Correct.  
24 MR. PRAISS: Then I would say that we  
25 have a serious problem and this will require either

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1 a motion for sanctions with the court for failure  
2 to prepare a witness or we'll have to come back  
3 here at a different time, but this is unacceptable.  
4 I need to understand what happened to this video  
5 and I think the topic is pretty damn clear, Judge  
6 Dierker.  
7 He made no effort, as far as I'm  
8 concerned. To tell me what you wrote in the email  
9 to Tony is unacceptable. I got that email and I  
10 said, gee, I'd like to know what happened. That's  
11 his role today.  
12 MR. DIERKER: Well, with all due  
13 respect to your disgruntlement, I think that your  
14 inquiring into the history of the repair and  
15 malfunctioning of the camera in question at other  
16 dates is beyond the topic and is completely beyond  
17 the scope of discovery and -- but we will be happy  
18 to provide, if they can be located, any work orders  
19 with regard to that camera and we'll be happy to  
20 resume the deposition if necessary.  
21 But my position is that the  
22 investigation has occurred into the loss or  
23 destruction of the video in question and that it is  
24 ongoing.  
25 MR. PRAISS: Well, I don't believe

14 (Pages 53 to 56)

<p style="text-align: right;">Page 57</p> <p>1 he's given me any testimony about the circumstances</p> <p>2 surrounding the loss or destruction other than what</p> <p>3 you wrote in an email, the fact that somebody</p> <p>4 discovered it a few months ago. But why it was</p> <p>5 destroyed, what was happening with this camera,</p> <p>6 when the City learned about it, those are relevant.</p> <p>7 For example -- anyways. So I -- I</p> <p>8 we'll agree to disagree. Why don't we take a short</p> <p>9 break.</p> <p>10 MR. DIERKER: Okay.</p> <p>11 MR. PRAISS: Thank you.</p> <p>12 (Off the record.)</p> <p>13 <b>Q (BY MR. PRAISS) Mr. Larson, back on</b></p> <p>14 <b>the record. Close the loop on a few other</b></p> <p>15 <b>questions, again dealing with topics 1 and 2 in</b></p> <p>16 <b>particular.</b></p> <p>17 <b>You had mentioned, I believe in your</b></p> <p>18 <b>testimony, if I heard you correctly, about the fact</b></p> <p>19 <b>that the City does have an in car cameras for --</b></p> <p>20 <b>A We have some, yes. Not all police</b></p> <p>21 <b>cars are equipped with in car camera system, but</b></p> <p>22 <b>some police cars are.</b></p> <p>23 <b>Q Are you aware if there's any in car</b></p> <p>24 <b>camera video recording of the Stockley protests?</b></p> <p>25 <b>A I am not.</b></p>	<p style="text-align: right;">Page 59</p> <p>1 A They're essentially downloaded and on</p> <p>2 -- and burned onto a disk with a file name and that</p> <p>3 -- and then put into an evidence envelope which</p> <p>4 would say something to the effect of video of X.</p> <p>5 <b>Q Let's talk about that X. Would it</b></p> <p>6 <b>say video from Documentation Team X?</b></p> <p>7 A Yes. It would say something to the</p> <p>8 effect of video recorded by Documentation Team.</p> <p>9 <b>Q Okay. Would they identify the name</b></p> <p>10 <b>of a person on the Documentation Team?</b></p> <p>11 A The seizing and submitting officer</p> <p>12 would prepare the evidence envelope that would have</p> <p>13 that information.</p> <p>14 <b>Q And obviously you would identify the</b></p> <p>15 <b>date and time and the location where that video was</b></p> <p>16 <b>taken by the Documentation Team?</b></p> <p>17 A It would indicate that, in the police</p> <p>18 report on the evidence envelope, it would indicate</p> <p>19 the date, time, location, where it was collected.</p> <p>20 <b>Q Okay. Are there any rules or</b></p> <p>21 <b>policies that the Documentation Team members have</b></p> <p>22 <b>to follow while they're collecting video?</b></p> <p>23 A Not specifically, as in they have</p> <p>24 been trained to, as part of the CDT process, to</p> <p>25 collect that evidence, that documentation, record</p>
<p style="text-align: right;">Page 58</p> <p>1 <b>Q If I wanted to know if those exist,</b></p> <p>2 <b>is that something that -- is it your understanding</b></p> <p>3 <b>that the City has, in its recordkeeping,</b></p> <p>4 <b>distinguishes between video recording from</b></p> <p>5 <b>Documentation Team versus the Real Time Crime</b></p> <p>6 <b>Center versus in car camera recording, those are</b></p> <p>7 <b>all separately retained in different ways?</b></p> <p>8 A Not necessarily separately retained.</p> <p>9 They're all retained in -- primarily again with</p> <p>10 even in car, the information is downloaded,</p> <p>11 recorded, put on disk, and entered into property</p> <p>12 custody with the complaint number of the associated</p> <p>13 incident.</p> <p>14 <b>Q But is it fair to say that somewhere</b></p> <p>15 <b>in the recording, recordkeeping process, there is</b></p> <p>16 <b>some identifier that indicates this was a video</b></p> <p>17 <b>recording taken by an in car camera?</b></p> <p>18 A Yes. We would be -- we would know</p> <p>19 how, where that came from. Yes.</p> <p>20 <b>Q Perfect. On a similar note, I think</b></p> <p>21 <b>-- and I think, and I apologize if I asked you this</b></p> <p>22 <b>or you answered it before but I want to make sure I</b></p> <p>23 <b>have a clear understanding myself.</b></p> <p>24 <b>How are the Documentation Team videos</b></p> <p>25 <b>named or tagged so they can be reviewed?</b></p>	<p style="text-align: right;">Page 60</p> <p>1 it, seize, mark package, and submit it to property</p> <p>2 custody.</p> <p>3 <b>Q Are there any rules that may</b></p> <p>4 <b>expressly prohibit them from deleting videos that</b></p> <p>5 <b>they take that may show improper police conduct?</b></p> <p>6 A There are no, to the best of my</p> <p>7 knowledge, no specific rule directed at that but</p> <p>8 our general rule would be, in the special orders,</p> <p>9 would be that that would not be acceptable.</p> <p>10 <b>Q When you say the "general rule," can</b></p> <p>11 <b>you point me to what are you referring to?</b></p> <p>12 A Things like conduct unbecoming.</p> <p>13 Obviously we -- that would be an illegal criminal</p> <p>14 act, to destroy evidence, and that would be a</p> <p>15 violation of law, and, therefore, we don't have an</p> <p>16 order that says you're not to do unlawful things.</p> <p>17 So I mean, it's part of the -- part and parcel of</p> <p>18 being a police officer, you would not download and</p> <p>19 destroy unfavorable evidence.</p> <p>20 <b>Q So to the extent somebody in the</b></p> <p>21 <b>Documentation Team recorded an incident where the</b></p> <p>22 <b>police acted inappropriately in connection with the</b></p> <p>23 <b>Stockley protest and then deleted it, that would be</b></p> <p>24 <b>an unlawful act?</b></p> <p>25 A Yes, I believe it would be</p>

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1 destruction of evidence, hindering prosecution, any  
2 list of crimes.  
3 **Q Has it come to the City's attention**  
4 **at any time that that -- something like that has**  
5 **actually happened where somebody on the**  
6 **Documentation Team has deleted video?**  
7 A I have no knowledge that that  
8 occurred.  
9 **Q As part of CDT training, what**  
10 **Documentation Team training is included?**  
11 A As part of the overall briefing on  
12 how we're going to execute specific functions, the  
13 individuals who are assigned to those teams are  
14 given cameras and told to go out and record the  
15 actions of protesters and the officers during the  
16 event.  
17 **Q Other than that, any other training?**  
18 A Not to my knowledge, there's not a  
19 specific like PowerPoint or lesson plan that covers  
20 that. It's incorporated into the ongoing trainings  
21 of the CDT teams.  
22 **Q Am I correct that Luther Hall was in**  
23 **the Documentation Team?**  
24 A I'm not sure. Luther Hall was  
25 assigned to the intelligence unit at the particular

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1 time. I am not sure in the detail where he was  
2 listed, if he was listed in the detail. He may  
3 have been on a Documentation Team in a previous  
4 assignment.  
5 **Q Okay. Do you have the OPs plan in**  
6 **front of you, sir?**  
7 A I do.  
8 **Q Can we mark that as an exhibit, if**  
9 **you don't mind?**  
10 MR. DIERKER: Can we go off the  
11 record for a minute?  
12 MR. PRAISS: Sure.  
13 (Off the record.)  
14 (Plaintiffs' 30(b)(6) Exhibit 3  
15 marked for identification by the court reporter.)  
16 **Q (BY MR. PRAISS) Mr. Larson, I'm**  
17 **going to hand you two pages and they have been**  
18 **Bates numbered CITY 430 and 431 on the backside as**  
19 **well as 439 and 438, and these are pages taken from**  
20 **the OPs plan?**  
21 A Correct.  
22 **Q Okay. And for the record, when I use**  
23 **the term "OPs plan," what does that mean?**  
24 A It's the operation order that is an  
25 umbrella document that we utilize to direct

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1 individuals to their job functions during an event,  
2 and we put these together for large scale special  
3 events. So Fair St. Louis would have an OPs an  
4 operations order. Mardi Gras has an operations  
5 order. Things like that.  
6 **Q Are the two pages I've handed, you**  
7 **are those from the OPs plan related to the Stockley**  
8 **post?**  
9 A They are.  
10 **Q And if you look on pages Bates**  
11 **numbered 430 and 439, do you see Luther Hall's name**  
12 **shown?**  
13 A I do.  
14 **Q And am I correct it identifies him**  
15 **being on the Documentation Team?**  
16 A Correct.  
17 **Q Okay. Does this confirm for you that**  
18 **Luther Hall was on the Documentation Team during**  
19 **the Stockley protests?**  
20 A Not necessarily. The way these  
21 things are put together, the individuals' names are  
22 -- they go into a pool. He may -- he is listed in  
23 the order as being on the operations plan. At the  
24 particular date and time, incident location, for  
25 his incident, I can't state that he was with these

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1 individuals at the time.  
2 **Q Do you have any reason to, sitting**  
3 **here, to not believe that he was on a Documentation**  
4 **Team as noted in the OPs plan?**  
5 A Again, this OPs plan had him on that  
6 team. There are changes that occur to the OPs  
7 plan, people call in sick, people get moved around.  
8 In particular, I would have to say that he was not  
9 with the Documentation Team at the time of his  
10 incident just because I have been told that that  
11 was not the case.  
12 **Q Separate and apart from the time of**  
13 **his incident, and I understand a lot of things can**  
14 **happen where changes happen from what the OPs plan**  
15 **says, but sitting here today as the corporate**  
16 **representative, are you aware whether or not any of**  
17 **those actually hypothetical things happened or, to**  
18 **the contrary, Mr. Luther Hall was in fact on a**  
19 **Documentation Team, at least in part, during the**  
20 **Stockley protests?**  
21 A He was listed as part of the  
22 Documentation Team in that particular operations  
23 order.  
24 **Q And my question, do you have reason**  
25 **specifically, based on facts, to tell me that he**

16 (Pages 61 to 64)

<p style="text-align: right;">Page 65</p> <p>1 didn't participate on the Documentation Team, at</p> <p>2 least in part, during the Stockley protest?</p> <p>3 MR. DIERKER: I need to object as</p> <p>4 outside the scope of the deposition designation as</p> <p>5 to Luther Hall's specific assignment, but you may</p> <p>6 answer.</p> <p>7 MR. PRAISS: If he knows.</p> <p>8 A I don't -- I don't know.</p> <p>9 <b>Q (BY MR. PRAISS) Okay. When was the</b></p> <p>10 <b>OPs plan -- and I know we only have a few pages of</b></p> <p>11 <b>it -- but when was it created?</b></p> <p>12 A It would have been created prior to</p> <p>13 the verdict announcement. Probably a week or so</p> <p>14 prior we would be collecting names. Because not</p> <p>15 knowing when the verdict would be released, we have</p> <p>16 the things, shift changes, all kinds of personnel</p> <p>17 issues, this is a very big document, we're trying</p> <p>18 to get multiple members of the police department at</p> <p>19 one place, at one time. So it would have been --</p> <p>20 it operates off a template format, meaning our</p> <p>21 operation planning unit has a template that they</p> <p>22 use for specific things, for specific roles, and</p> <p>23 individuals are plugged into that template.</p> <p>24 It was an ongoing process to create</p> <p>25 that document and the document was released prior</p>	<p style="text-align: right;">Page 67</p> <p>1 another, deal with chemical agents?</p> <p>2 A Yes.</p> <p>3 <b>Q Okay. Is there anything that you did</b></p> <p>4 <b>specifically to prepare for these topics?</b></p> <p>5 A Topic 12 and topic 15?</p> <p>6 <b>Q No, topic 12, 13, 14, and 15.</b></p> <p>7 A Yes, I reviewed the special orders,</p> <p>8 Special Order 1-01 specifically, the section, I</p> <p>9 believe it's Section VIII-6 that covers mace and</p> <p>10 Section XIII which covers chemical agents and crowd</p> <p>11 dispersement.</p> <p>12 <b>Q The first section was section?</b></p> <p>13 A I believe it's Section VI. It's</p> <p>14 individual use of mace.</p> <p>15 <b>Q And the other section you reviewed?</b></p> <p>16 A I believe it was XIII.</p> <p>17 <b>Q And other than reviewing those</b></p> <p>18 <b>sections from the Special Order, did you do</b></p> <p>19 <b>anything else to prepare for testifying as a</b></p> <p>20 <b>corporate representative on topics 12 through 15?</b></p> <p>21 A I looked at some training documents,</p> <p>22 primarily related more towards dispersal order than</p> <p>23 chemical agents, but that's part of the Special</p> <p>24 Order Section XIII, 1-01 Section XIII.</p> <p>25 <b>Q Okay. Anything else? I just want to</b></p>
<p style="text-align: right;">Page 66</p> <p>1 to the events that occurred.</p> <p>2 So we knew the Grand Jury verdict was</p> <p>3 going to come in a day or so. The OPs plan was</p> <p>4 ready to go by those dates.</p> <p>5 <b>Q Was the OPs plan at any time amended</b></p> <p>6 <b>after its release?</b></p> <p>7 A Not to my knowledge, but there are</p> <p>8 email -- if there were personnel changes in general</p> <p>9 manners, we update -- like replacement personnel</p> <p>10 lists, there would be a replacement personnel list.</p> <p>11 I don't know that one was created. A lot of that</p> <p>12 stuff comes by phone. People call in, say Joe is</p> <p>13 not coming, Eric is coming, and so.</p> <p>14 <b>Q But my question is, to your</b></p> <p>15 <b>knowledge, nobody input any of those information</b></p> <p>16 <b>about individual changes in terms of generating an</b></p> <p>17 <b>amended OPs plan?</b></p> <p>18 A No. No.</p> <p>19 <b>Q Thank you. Do you have the Notice of</b></p> <p>20 <b>Deposition in front of you?</b></p> <p>21 A I do.</p> <p>22 <b>Q I'd like to jump to topic 12, if I</b></p> <p>23 <b>could, and cover topics 12 and 15 with you.</b></p> <p>24 A Okay.</p> <p>25 <b>Q You see they all, in one way or</b></p>	<p style="text-align: right;">Page 68</p> <p>1 <b>make sure I have a complete understanding of what</b></p> <p>2 <b>you did, what you looked at in preparing for these</b></p> <p>3 <b>topics 12 through 15?</b></p> <p>4 A I believe that would be the extent of</p> <p>5 it.</p> <p>6 <b>Q Okay. In a few minutes I'm going to</b></p> <p>7 <b>show you a particular document. Please let me</b></p> <p>8 <b>know, when I hand it to you, if that's the training</b></p> <p>9 <b>document you were referring to or it's something</b></p> <p>10 <b>else and we'll explore that a little bit.</b></p> <p>11 <b>In your career since -- I think you</b></p> <p>12 <b>started out in 1994 --</b></p> <p>13 A Mm-hmm.</p> <p>14 <b>Q -- '95 time period, have you yourself</b></p> <p>15 <b>ever deployed pepper spray or mace?</b></p> <p>16 A I have been involved in incidents</p> <p>17 where pepper spray and mace were deployed,</p> <p>18 primarily as a patrol officer, which would be in</p> <p>19 the 1995 through 2004 time frame. Whether I was</p> <p>20 actually the officer that deployed or was an assist</p> <p>21 officer, I can't recall.</p> <p>22 <b>Q Okay. Do you recall approximately</b></p> <p>23 <b>how many times you, whether yourself did it or</b></p> <p>24 <b>another police officer close to you, used pepper</b></p> <p>25 <b>spray that you recall from 1995-2004?</b></p>

<p style="text-align: right;">Page 69</p> <p>1 A I can't recall. I'd be speculating.</p> <p>2 Q Okay. After 2004, though, you had --</p> <p>3 have you ever yourself deployed pepper spray mace,</p> <p>4 or witnessed other police officers doing it?</p> <p>5 A I'm sorry, I'm pausing because I'm</p> <p>6 trying to think through. Most of my duties were</p> <p>7 not street enforcement related between 2004 and</p> <p>8 2015, so I would say during that time frame, no, I</p> <p>9 can't recall ever deploying or seeing mace</p> <p>10 deployed.</p> <p>11 I can't recall seeing mace deployed</p> <p>12 as a commander during -- during any -- not where I</p> <p>13 was -- not where I was like front and center</p> <p>14 present, no. I don't -- I don't recall.</p> <p>15 Q So really the only times where you</p> <p>16 either yourself used pepper spray mace, or</p> <p>17 witnessed someone, would have been during the</p> <p>18 1995/2004 time period?</p> <p>19 A Yes.</p> <p>20 Q During that time period, were those</p> <p>21 incidents in connection with an arrest of an</p> <p>22 individual?</p> <p>23 A Yes.</p> <p>24 Q Prior to the use of pepper spray or</p> <p>25 mace in those incidents, is it your recollection</p>	<p style="text-align: right;">Page 71</p> <p>1 Q Think of a situation where the person</p> <p>2 is not resisting in any way physically, there is no</p> <p>3 threat of violence, there is no imminent threat of</p> <p>4 harm to the police officer who is trying to</p> <p>5 effectuate the arrest --</p> <p>6 A Then there would be --</p> <p>7 Q Just a -- let me finish my question.</p> <p>8 A Sorry.</p> <p>9 Q I'm going to start over. I want you</p> <p>10 to imagine the following scenario, which is not</p> <p>11 implausible at all, I hope you'll agree with me,</p> <p>12 that there is an officer trying to effectuate an</p> <p>13 arrest. The officer has the handheld pepper spray</p> <p>14 mace device with him. He asks the person to do</p> <p>15 something and the person is -- simply refuses to</p> <p>16 comply with that request but is not exhibiting any</p> <p>17 force or violence, there is absolutely no threat of</p> <p>18 imminent harm to the police officer or anybody</p> <p>19 else, just a non-compliant individual.</p> <p>20 Under those circumstances, is the</p> <p>21 police officer allowed, on the escalation of use of</p> <p>22 force, to spray the person with pepper spray</p> <p>23 without giving him a warning, saying words to the</p> <p>24 effect, sir, you're not complying with my request;</p> <p>25 unless you comply, I'm going to spray you with</p>
<p style="text-align: right;">Page 70</p> <p>1 that the officer provided any warnings to the</p> <p>2 individual?</p> <p>3 A No, it would have been relative to</p> <p>4 affecting an arrest. The individual would have</p> <p>5 been told that they were under arrest or it would</p> <p>6 have been a fight situation so the deployment would</p> <p>7 have been immediate and there would be no warning</p> <p>8 given.</p> <p>9 Q Were there any situations where it</p> <p>10 wasn't a fight but simply somebody was not</p> <p>11 compliant with a request, such as turn around so I</p> <p>12 can put handcuffs on you, the person doesn't</p> <p>13 comply, and to effectuate the arrest, the officer</p> <p>14 needs to use pepper spray mace?</p> <p>15 A Under our order, we do not warn that</p> <p>16 we're going to deploy mace for an arrest situation.</p> <p>17 The individual is notified that they're under</p> <p>18 arrest, turn around, put your hands behind your</p> <p>19 back, and then if when the individual fails to do</p> <p>20 that, then it's an escalation of force through the</p> <p>21 use of force continuum.</p> <p>22 So if I go to put my hands on an</p> <p>23 individual, and they resist, they begin to flail,</p> <p>24 then I might use mace to subdue them and bring them</p> <p>25 under compliance.</p>	<p style="text-align: right;">Page 72</p> <p>1 pepper spray and it's going to hurt. Something to</p> <p>2 that effect?</p> <p>3 A No.</p> <p>4 Q Is there a reason why, as a policy,</p> <p>5 the City wouldn't want police officers under the</p> <p>6 circumstance that I described, where an individual</p> <p>7 is simply uncooperative, but not violent, that you</p> <p>8 wouldn't, in the process of trying to effectuate an</p> <p>9 arrest in a peaceful manner, not give a warning,</p> <p>10 saying, I'm going to do something that's going to</p> <p>11 hurt you, please cooperate?</p> <p>12 A Because mace is not --</p> <p>13 MR. DIERKER: Excuse me, I'd like to</p> <p>14 object to the form of the question as</p> <p>15 argumentative, but you may answer.</p> <p>16 A Because, technically, mace is not to</p> <p>17 be used just on non-compliance, passively resisting</p> <p>18 persons. So we would not use mace on someone who</p> <p>19 is passively resisting. Mace would be used on an</p> <p>20 actively resisting. So if I am refusing to be</p> <p>21 handcuffed, we would put handcuffs on an individual</p> <p>22 and use -- we wouldn't necessarily spray them</p> <p>23 unless they are actively resisting.</p> <p>24 Q (BY MR. PRAISS) So if I heard you</p> <p>25 correctly, if someone is passively resisting, the</p>

18 (Pages 69 to 72)



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<p>1 City's policies is that mace should not be used in</p> <p>2 that circumstance; is that an accurate statement?</p> <p>3 A I believe so.</p> <p>4 Q Okay. To the extent, in connection</p> <p>5 with the Stockley protests, individuals were</p> <p>6 engaging in civil disobedience but peacefully, and</p> <p>7 at no time actively resisting but simply passively</p> <p>8 resisting a request, an order from a police</p> <p>9 officer, it would have been inappropriate for a</p> <p>10 police officer in those situations to use pepper</p> <p>11 spray at those individuals to get them to comply</p> <p>12 with a request; is that a fair statement?</p> <p>13 A Unless other factors were in play.</p> <p>14 So, for example, obviously we would need to give</p> <p>15 warnings to individuals that were -- because of the</p> <p>16 dynamic nature of protests, where there is some</p> <p>17 engaged in unlawful activities, sometimes in order</p> <p>18 to disperse crowds, mace would be deployed, but</p> <p>19 only after a set of circumstances.</p> <p>20 Q Okay. I want to break that down a</p> <p>21 little bit and understand what you're saying. I</p> <p>22 want to talk about a situation where you have a</p> <p>23 group of people protesting and officers tell a</p> <p>24 particular individual -- gives him a command to do</p> <p>25 X Y and Z.</p>	<p>1 deployed.</p> <p>2 Q Okay. Is there a reason why the City</p> <p>3 has a policy that in that situation allows a police</p> <p>4 officer to spray me without warning to get me to</p> <p>5 cooperate, knowing that by spraying someone, it's</p> <p>6 going to hurt like hell, excuse my language, and if</p> <p>7 I gave the warning as a police officer, I may get</p> <p>8 compliance? What's the rationale for not giving</p> <p>9 a warning in that situation? That's why I'm</p> <p>10 perplexed.</p> <p>11 MR. DIERKER: I'll object to the form</p> <p>12 of the question as argumentative and calls for a</p> <p>13 legal conclusion. You may answer.</p> <p>14 Q (BY MR. PRAISS) You're not an</p> <p>15 attorney, are you? I just want to make sure I</p> <p>16 didn't miss something.</p> <p>17 A Technically, I am an attorney. I</p> <p>18 graduated from law school in 2004.</p> <p>19 Q Should have covered your education.</p> <p>20 A Yes.</p> <p>21 Q Where did you go to law school?</p> <p>22 A Saint Louis University School of Law.</p> <p>23 Q Okay. So you are an attorney.</p> <p>24 A I am an attorney. I don't actively</p> <p>25 practice law.</p>
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<p>1 At that point, if the person is</p> <p>2 passively resisting, refusing to turn around so</p> <p>3 handcuffs could be put on him or her, is there any</p> <p>4 basis for an officer then to use handheld mace and</p> <p>5 spray the person in order to get them to comply,</p> <p>6 under the police policies?</p> <p>7 A I think we're going to quibble over</p> <p>8 what active/passive resistance looks like. Under</p> <p>9 strict passive resistance, I would say no, there</p> <p>10 would be no reason, but what shifts from active to</p> <p>11 passive is where we are going to have issues on</p> <p>12 when spraying is going to occur or not going to</p> <p>13 occur.</p> <p>14 Q Okay. But again, I want to focus on</p> <p>15 my situation, that simply is a refusal to comply</p> <p>16 with an order but not in any way resisting or</p> <p>17 tugging or doing anything. Just saying no, holding</p> <p>18 my hands like this. Would an officer be allowed,</p> <p>19 in my -- I'm just crossing my hands and -- would in</p> <p>20 your mind be -- is that a position where an officer</p> <p>21 could spray me without any warning?</p> <p>22 A By crossing your arms, you are</p> <p>23 committing active and defensive resistance, so</p> <p>24 you're actively resisting my attempt to take you</p> <p>25 into custody, so, therefore, mace could be</p>	<p>1 Q For today's deposition I am not</p> <p>2 asking for any legal opinions by you. I think the</p> <p>3 judge will handle the law side quite well.</p> <p>4 A Yes. I hope so.</p> <p>5 Q Yes. My question to you is, solely</p> <p>6 as the representative of the City today about</p> <p>7 City's policies and practices. And we have topics</p> <p>8 dealing with chemical agents, you have mentioned</p> <p>9 that you viewed the Special Order Section VI</p> <p>10 dealing with mace, and I'm going back to my</p> <p>11 specific question.</p> <p>12 Could you explain to me the rationale</p> <p>13 between -- strike that.</p> <p>14 Can you explain to me the City's</p> <p>15 rationale for allowing officers to use handheld</p> <p>16 pepper spray against an individual who is not</p> <p>17 acting violently, but simply refusing an order,</p> <p>18 without first giving a simple warning, advising the</p> <p>19 individual that there will be pepper spray deployed</p> <p>20 against them unless they comply?</p> <p>21 MR. DIERKER: I'll renew my</p> <p>22 objection. You may answer.</p> <p>23 A The reason is, generally, in order to</p> <p>24 take the person into custody, to use the element of</p> <p>25 surprise as it were, to take the individual into</p>

19 (Pages 73 to 76)

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<p>1 custody. If -- and again, we're talking about</p> <p>2 active versus passive resistance. We wouldn't use</p> <p>3 mace on individuals that are just generally not</p> <p>4 compliant. It's when they're not compliant and we</p> <p>5 cannot take them into custody.</p> <p>6 You cannot comply with -- you can --</p> <p>7 I'm trying to phrase this appropriately. You can</p> <p>8 be non-compliant and actively resisting, in which</p> <p>9 we would deploy mace. In general, if you are</p> <p>10 passively resisting, I am not going to go, I'm</p> <p>11 going to sit down, we would use empty hand</p> <p>12 techniques to take the individual into custody. We</p> <p>13 would not deploy mace.</p> <p>14 As regards to warnings, as a standard</p> <p>15 policy, we do not give warnings to individuals that</p> <p>16 we are going to not -- we don't use warnings on a</p> <p>17 one-on-one individual basis. If we're going to use</p> <p>18 them in a crowd dispersal basis, then a warning</p> <p>19 would be applied.</p> <p>20 <b>Q (BY MR. PRAISS) That's what I'm</b></p> <p>21 <b>trying to understand. Why is it in one situation</b></p> <p>22 <b>you do have warnings and the City recognizes the</b></p> <p>23 <b>value of them, but in this situation, prior to</b></p> <p>24 <b>escalating the situation, the City has a policy</b></p> <p>25 <b>that allows the use of pepper spray without</b></p>	<p>1 <b>person, saying, sir, your hands are crossed, you</b></p> <p>2 <b>are resisting my attempt to arrest you, I am asking</b></p> <p>3 <b>you one last time, please comply or I will have to</b></p> <p>4 <b>spray you with pepper spray?</b></p> <p>5 A But in most instances, we've</p> <p>6 already --</p> <p>7 MR. DIERKER: Excuse me, I object to</p> <p>8 the form of the question, argumentative, compound,</p> <p>9 complex, calling for a legal conclusion.</p> <p>10 MR. PRAISS: Wow, any other</p> <p>11 objections, Judge Dierker, from your law school</p> <p>12 days that you want to come up with?</p> <p>13 MR. DIERKER: If I think of any, I'll</p> <p>14 assert them.</p> <p>15 MR. PRAISS: Please assert them. I</p> <p>16 think you could add three more.</p> <p>17 <b>Q (BY MR. PRAISS) But subject to all</b></p> <p>18 <b>that, sir, could you answer my question?</b></p> <p>19 A Mostly because our goal in any</p> <p>20 situation is de-escalation and voluntary</p> <p>21 compliance. It -- everything works better for the</p> <p>22 officer on the street if we can gain voluntary</p> <p>23 compliance from the individual. Once we have</p> <p>24 reached a point where we're in a situation where</p> <p>25 we've already asked you to comply, we've already</p>
Page 78	Page 80
<p>1 <b>warnings? That's what I'm trying to exactly</b></p> <p>2 <b>understand.</b></p> <p>3 MR. DIERKER: Once again I object to</p> <p>4 the form of the question.</p> <p>5 <b>Q (BY MR. PRAISS) You may answer.</b></p> <p>6 A I cannot give you a reason why we</p> <p>7 provide warnings other than the tactical</p> <p>8 application of the mace itself.</p> <p>9 <b>Q When you say "the tactical</b></p> <p>10 <b>application of mace," what do you mean by that,</b></p> <p>11 <b>sir?</b></p> <p>12 A The actual deployment, the -- to tell</p> <p>13 someone that we are going to take a course of</p> <p>14 action then gives them an opportunity to thwart</p> <p>15 that course of action. So we wouldn't -- if I gave</p> <p>16 you the opportunity to -- if I said I am going to</p> <p>17 spray you with mace if you don't comply, well, then</p> <p>18 you might cover your face with your arm and then --</p> <p>19 <b>Q Or I may just as well comply,</b></p> <p>20 <b>couldn't I? Isn't that a possibility too?</b></p> <p>21 A All possibilities are possibilities</p> <p>22 until they become probabilities.</p> <p>23 <b>Q So if the goal is to avoid escalating</b></p> <p>24 <b>the situation, will you agree with me that, at a</b></p> <p>25 <b>minimum, you will try to de-escalate by warning a</b></p>	<p>1 then told you to comply, so we've got two refusals</p> <p>2 of compliance, at the third point it's time for us</p> <p>3 to take action. And the individual officer has the</p> <p>4 discretion of determining what that action will be.</p> <p>5 And what is to -- what minimizes the potential for,</p> <p>6 quote, injuries from taking such action.</p> <p>7 So we could go hands on and grab and</p> <p>8 manipulate an individual, force them to the ground,</p> <p>9 potentially causing injury. We could spray them</p> <p>10 with mace, which, while painful, does not tend to</p> <p>11 have long-lasting effects or long-term injuries.</p> <p>12 That's why it's a non-deadly use of force.</p> <p>13 I think that is part of the</p> <p>14 explanation in that, once we have reached the stage</p> <p>15 of taking action, we are no longer in a -- required</p> <p>16 to be giving warnings as far as what we've done.</p> <p>17 We've already done that. We've already given the</p> <p>18 warnings. We've already said you're failing to</p> <p>19 comply. You're subject to arrest. We're going to</p> <p>20 arrest you if you fail to comply. That's a matter</p> <p>21 of using force.</p> <p>22 <b>Q But nowhere in that process is the</b></p> <p>23 <b>police officer required to give a warning that he</b></p> <p>24 <b>or she is going to -- about to use pepper spray</b></p> <p>25 <b>mace in order to get compliance from an individual;</b></p>

20 (Pages 77 to 80)

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1 correct?

2 A They are not.

3 Q Okay. Could you, for the benefit --

4 for my benefit and for the record, describe as best

5 you can the difference between passively resisting

6 and actively resisting? What triggers that

7 distinction? And let me also, I'd like to

8 understand what training is provided to officers or

9 are there anything in writing that defines those

10 things?

11 A It covers it in the orders and during

12 defensive tactics training I believe from the St.

13 Louis Police Academy, where all officers go through

14 that, you know. Active resisting is generally an

15 active fight or flailing or resistance to being

16 taken into custody.

17 Q Let's focus on the last part, "the

18 resistance to being taken into custody." What

19 constitutes resistance? What's the minimum amount

20 that I have to do to trigger active resistance?

21 Let's get the minimum threshold.

22 A The minimum threshold, it first would

23 start with refusing to comply because that's an

24 active act. And then as we go forward, we're going

25 to get into things that are actually resisting my

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1 arrest. That could be fleeing. It could be

2 flailing. It could be -- those two are the main

3 ones. Fleeing from being put into handcuffs,

4 running from me, taking a fighting stance. All of

5 those.

6 Q Again, I'm focusing on the minimum.

7 You seem to be wanting to look at the higher end of

8 the spectrum, with all due respect.

9 A Right.

10 Q Take the situation, and I think I

11 heard you correctly, of an individual simply

12 refuses to comply.

13 A Mm-hmm.

14 Q Was it your testimony that simply

15 refusing to comply in itself is actively resisting?

16 A It can be. Refusing to comply, if

17 I'm refusing to comply and I'm locking my arms, or

18 I'm refusing to comply by holding this chair, that

19 can be an active resistance. Passively resisting

20 is I'm just resisting you. I'm just saying no.

21 And when the officer puts his hand on me to put me

22 in handcuffs, I willingly put my hands behind my

23 back and I am cuffed and I passively walk away.

24 Q So in the situation today of an

25 individual who refuses to comply with a request and

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1 locks his or her hands in such a fashion that make

2 it difficult for a police officer to effectuate an

3 arrest, the police officer can, using his or her

4 discretion, spray that individual with pepper spray

5 without giving any warning; is that a fair summary?

6 A They do not have to give a warning.

7 Q Gotcha.

8 MR. PRAISS: Let me mark this as an

9 exhibit.

10 (Plaintiffs' 30(b)(6) Exhibit 4

11 marked for identification by the court reporter.)

12 Q (BY MR. PRAISS) I have given you

13 what's been marked as Exhibit 4, and it begins with

14 Bates number CITY 764, and does yours end -- I want

15 to make sure we're looking at the same thing

16 because the numbers seem to be off right now --

17 ends with CITY 53?

18 A Yes.

19 Q Okay. And I don't have an

20 explanation why the Bates numbers are not

21 sequential. Do you recognize this document?

22 A I do, and just as a point of

23 clarification in my earlier statement where I said

24 I reviewed pepper mace and I said Section VI, it's

25 actually Roman numeral Section IV, IV instead of

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1 VI.

2 Q Okay. If you go to Bates number CITY

3 775? Is that the portion of the Special Order

4 Section IV dealing with the use of pepper spray?

5 Pepper mace?

6 A It is.

7 Q Okay. Is there anything in here that

8 you can point me to specific language that

9 identifies the difference between passive versus

10 active resistance?

11 A There is not.

12 Q Are you aware of any specific

13 training, written documents that specifically

14 delineate to officers the difference between

15 passive versus active resistance?

16 A I cannot point to any specific

17 training other than just my own as far as what we

18 discuss as far as active versus passive, that you

19 don't want to use mace on passively compliant

20 people.

21 Q Again, I'm interested in your

22 testimony as a corporate representative and I think

23 one of the topics deals with the training dealing

24 with chemical agents?

25 A Yes.

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<p>1 Q You understand our definition of</p> <p>2 "chemical agents" includes pepper spray – pepper</p> <p>3 mace?</p> <p>4 A I do.</p> <p>5 Q Okay. So my question, in preparing</p> <p>6 for today's deposition, is it your testimony the</p> <p>7 City has no training documents that explain</p> <p>8 specifically the difference between passive versus</p> <p>9 active resistance which would advise police</p> <p>10 officers under what circumstances they may or may</p> <p>11 not use pepper spray mace to effectuate an arrest?</p> <p>12 I have not seen those documents and I'm trying to</p> <p>13 find out if they're out there.</p> <p>14 A No, I cannot. I cannot.</p> <p>15 Q Have you ever seen such document?</p> <p>16 A No, I cannot recall. No, I cannot.</p> <p>17 Q Okay. For the record, I believe</p> <p>18 there may be a page missing in here, and I think</p> <p>19 there was an email from Tony to you about it on</p> <p>20 Friday and maybe at some point, when we get that</p> <p>21 page, we'll include it in here. I noticed that --</p> <p>22 MR. DIERKER: Well, it's certainly --</p> <p>23 it's our intention that you have the whole thing.</p> <p>24 MR. PRAISS: I think there are one or</p> <p>25 two pages missing that Tony brought to your</p>	<p>1 earlier I tried to be as thorough as possible to</p> <p>2 find out all documents you reviewed. I don't</p> <p>3 recall -- you mentioned a training document. Is</p> <p>4 this the document you were referring to?</p> <p>5 A I did review this training document,</p> <p>6 or this document prior to our meeting today.</p> <p>7 Q Okay. Did you make an effort to</p> <p>8 speak with anybody other than your attorneys about</p> <p>9 this document, Exhibit 5?</p> <p>10 A No.</p> <p>11 Q Okay. Are you aware -- strike that.</p> <p>12 You mentioned that this was presented</p> <p>13 to you and others in senior command prior to the</p> <p>14 Stockley protest?</p> <p>15 A Yes.</p> <p>16 Q And when you say senior command, what</p> <p>17 does that mean?</p> <p>18 A The senior command would be the</p> <p>19 chief, the assistant chief, the colonels, the</p> <p>20 majors, I believe the captains, and perhaps</p> <p>21 specialized unit lieutenants.</p> <p>22 Q Do you recall who provided this</p> <p>23 presentation?</p> <p>24 A It was the law department, I believe</p> <p>25 it was Christine Hutson.</p>
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<p>1 attention. That's all I want to make sure.</p> <p>2 Okay. Will you mark this as the next</p> <p>3 exhibit.</p> <p>4 (Plaintiffs' 30(b)(6) Exhibit 5</p> <p>5 marked for identification by the court reporter.)</p> <p>6 Q (BY MR. PRAISS) I'm handing you</p> <p>7 what's been marked for identification purposes as</p> <p>8 Exhibit 5. Mr. Larson, this document, Exhibit 5,</p> <p>9 is titled City of St. Louis Law Department Police</p> <p>10 Section Protest Law and it's dated August 16, 2017.</p> <p>11 Do you see that?</p> <p>12 A I do.</p> <p>13 Q Have you ever seen this document</p> <p>14 before today's deposition?</p> <p>15 A I have.</p> <p>16 Q When do you recall seeing it?</p> <p>17 A I saw it when it was presented and I</p> <p>18 believe that was on 8/16 when it was presented to</p> <p>19 the senior command during pre-Stockley training.</p> <p>20 Q Did you -- is this -- this is not a</p> <p>21 document you reviewed in preparing for today's</p> <p>22 deposition?</p> <p>23 A I did. I would have read it in the</p> <p>24 course of preparation.</p> <p>25 Q All right. Because you recall</p>	<p>1 Q Do you know if at any time subsequent</p> <p>2 to the presentation that was made to the senior</p> <p>3 command, a similar presentation of this document</p> <p>4 was provided to all police officers?</p> <p>5 A I believe -- I don't believe so. I</p> <p>6 don't know. It may have gone out in department</p> <p>7 mail but I can't recall.</p> <p>8 Q Okay. This is dated just a few weeks</p> <p>9 before the Stockley protest; correct?</p> <p>10 A Yes.</p> <p>11 Q Do you know if this was prepared</p> <p>12 specifically in anticipation of the verdict in the</p> <p>13 Stockley matter?</p> <p>14 A I believe it was.</p> <p>15 Q Is it fair to say, is it your</p> <p>16 understanding that this document purports to</p> <p>17 reflect the policies and practices of the City of</p> <p>18 St. Louis for the matters that are identified in</p> <p>19 it?</p> <p>20 A Can you repeat that? I'm confused.</p> <p>21 Q Sure. It's not the clearest</p> <p>22 question, so thank you for asking me to rephrase.</p> <p>23 Is it fair to say that Exhibit 5 and</p> <p>24 the information contained within it about protest</p> <p>25 law accurately reflects the City's understanding</p>

22 (Pages 85 to 88)

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1 with respect to the matters set forth in the  
2 document?  
3 A Yes.  
4 Q All right. Go to page 17, please, of  
5 the PowerPoint.  
6 A Yes.  
7 Q It's titled Chemical Agents.  
8 Do you see that?  
9 A I do.  
10 Q It says, "In most cases, mandatory  
11 warnings must be given prior to using chemical  
12 agents as a result of Templeton."  
13 Do you see that?  
14 A Yes.  
15 Q The phrase "In most cases" indicates  
16 to me that it's not universal; correct?  
17 A Yes.  
18 Q And is what we discussed up until now  
19 about the use of pepper spray, pepper mace, the  
20 only exception whereby mandatory warnings must not  
21 be given prior to using chemical agents?  
22 A I'm sorry, I'm confused again.  
23 Q We discussed the use of pepper spray  
24 mace; correct?  
25 A Yes.

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1 Q And we were talking about it in the  
2 context of handheld device by a police officer;  
3 correct?  
4 A Correct.  
5 Q Is that the only situation where a  
6 mandatory warning is not required prior to using a  
7 chemical agent?  
8 A Well, in general, mandatory warnings  
9 are required when they're being used for crowd  
10 dispersal. So when we're using them as a crowd  
11 dispersal tool, then they're going to -- then a  
12 mandatory warning is necessary.  
13 Q Gotcha. So this document is only  
14 dealing with the context of -- strike that.  
15 Let's go to the next page, page 18.  
16 A Yes.  
17 Q Make sure I got the right page here.  
18 I'm going to be so upset at myself. Are we missing  
19 pages here? Do you have page 18 on yours?  
20 A I have page 18.  
21 Q You're the only one here that has  
22 page 18. It's my lack of -- inability to copy  
23 things appropriately. I'm still learning the Xerox  
24 machine at the ACLU.  
25 MR. DIERKER: You have my sympathy.

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1 MR. PRAISS: Thank you. I tried so  
2 hard not to bother anybody at the office and this  
3 is what I get. I have odd pages. Well, I  
4 apologize. We'll make copies of that one but this  
5 is to, the extent I deal with odd pages, we'll be  
6 in good shape.  
7 Q (BY MR. PRAISS) On page 18, am I  
8 correct it says, "Which chemical agents are covered  
9 by this policy?" And it says, "All of them."  
10 Correct?  
11 A That is correct.  
12 Q Okay. Are there any chemical agents  
13 that are not included in the policy dealing with  
14 protest law in --  
15 A No. Sorry.  
16 Q If the chemical composition -- strike  
17 that.  
18 Am I correct that the chemical  
19 composition of pepper spray mace, whether it's in a  
20 handheld device or in a fogger, is identical?  
21 A The chemical composition of, I'm  
22 sorry, the handheld mace and a fogger are  
23 identical? I believe they are. I think it's the  
24 dispersal method that is different.  
25 Q Are you familiar with the Templeton

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1 Settlement Agreement?  
2 A Yes, I mean, I know that it occurred.  
3 Q Do you see there's references in the  
4 pages that follow that refer in the heading to the  
5 Templeton versus Dotson, et al., Settlement  
6 Agreement?  
7 A Yes.  
8 Q Quite a few pages dealing with it?  
9 A Yes.  
10 Q Have you yourself ever looked at the  
11 Templeton Settlement Agreement?  
12 A I believe so. I believe it was  
13 disseminated to commanders at the time of the  
14 agreement.  
15 Q Okay. Did you review the Templeton  
16 Settlement Agreement in preparation for today's  
17 deposition?  
18 A I don't believe I did because  
19 Templeton was incorporated in the Special Order  
20 1-01, Section XIII.  
21 Q Did I hear you correctly that  
22 Templeton Settlement Agreement -- strike that.  
23 Am I correct that the terms of the  
24 Templeton Settlement Agreement were incorporated  
25 into Section XIII of Special Order 1-01?

23 (Pages 89 to 92)



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1 A Yes.

2 Q Okay.

3 MR. DIERKER: Off the record.

4 (Off the record.)

5 (Plaintiffs' 30(b)(6) Exhibit 6

6 marked for identification by the court reporter.)

7 Q (BY MR. PRAISS) Sir, I'm going to

8 hand you what's been marked as Exhibit 6, which is

9 a copy of the Templeton Settlement Agreement?

10 A Mm-hmm.

11 Q You don't believe you reviewed this

12 in preparing for the deposition?

13 A I don't believe so because I believe

14 the context of it was all incorporated into Special

15 Order 1-01 Section XIII.

16 Q Okay. If you look on the first page,

17 paragraph A at the bottom, and I'll paraphrase

18 generally, do you see that in, first, the

19 defendants and anybody acting on their behalf

20 basically will not enforce any rule, policy, or

21 practice that grants law enforcement officials

22 authority or discretion to do certain things which

23 are set out on page 2?

24 Do you see that?

25 A Yes.

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1 Q So to the extent the City of St.

2 Louis had any rule, policy, or practice as of the

3 date of this Settlement Agreement that granted law

4 enforcement officials the authority or discretion

5 of the things that are set forth on the following

6 page, the understanding of the City was that this

7 Settlement Agreement prohibited those practices;

8 correct?

9 A Correct.

10 Q It sets out at two different

11 circumstances where chemical agents could be used

12 on the next page; correct?

13 A Yes.

14 Q And the first one, basically, it

15 precluded police officers as part of the Settlement

16 Agreement from using chemical agents for the

17 purpose of dispersing groups of individuals who

18 were engaged in non-criminal activity in the City

19 unless the full requirements were met; correct?

20 A Correct.

21 Q And the second factor was it

22 prohibited police officers from using chemical

23 agents on individuals who were engaged in

24 non-criminal activity for the purpose of

25 frightening them or punishing them for exercising

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1 their constitutional rights?

2 A That is correct.

3 Q Okay. There was four requirements

4 that applied to the first circumstance; correct?

5 A Yes.

6 Q The first one is that there has to be

7 a clear and unambiguous warning?

8 Do you see that?

9 A Correct.

10 Q Second one, there's an opportunity to

11 heed the warning?

12 A Correct.

13 Q The third one is a minimized impact

14 on individuals who are complying with orders; and

15 the last one is ensure safe egress is available to

16 people.

17 Do you see those four requirements?

18 A I do, for the individuals engaged in

19 non-criminal activity.

20 Q No, this would be for element one for

21 the purpose of dispersing groups of individuals.

22 A Who are engaged in non-criminal

23 activity.

24 Q Gotcha. With respect to the first

25 requirement of clear and unambiguous warning, is it

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1 the City's understanding that that warning would,

2 among other things, advise the person that chemical

3 agents would be used?

4 A Yes, we would give a warning that

5 would say failing to comply with X action can

6 result in the deployment of chemical munitions. We

7 would then direct individuals where to go and how

8 to comply, and then we'd try to minimize the effect

9 of the chemical agents if they were deployed.

10 Q And I'm just focusing on the first

11 one. I just want to make sure that my

12 understanding is accurate that the reference to

13 clear and unambiguous warning specifically

14 contemplates a warning that chemical agents would

15 be used absent compliance.

16 A Yes.

17 Q Gotcha. With respect to minimize

18 impact on individuals who are complying with the

19 order in that situation, is it -- do you agree that

20 it is easier for police officers to comply with

21 this requirement if they use a handheld pepper

22 spray device as compared to a fogger? Let me ask

23 it differently.

24 Would you agree that foggers tend to

25 spray a larger area and, therefore, more likely to

24 (Pages 93 to 96)

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<p>1 impact a greater number of individuals than a</p> <p>2 handheld device?</p> <p>3 A Yes.</p> <p>4 Q So if the objective is to minimize</p> <p>5 the impact on individuals who are complying with an</p> <p>6 order with respect to this requirement, you would</p> <p>7 agree with me that using a handheld device would be</p> <p>8 more appropriate?</p> <p>9 A It may be.</p> <p>10 Q Do you see that there is a definition</p> <p>11 of "chemical agents" included as part of Settlement</p> <p>12 Agreement?</p> <p>13 A I'm sorry -- oh, what -- yeah, under</p> <p>14 1, where it says, yes, that there are a range of</p> <p>15 chemical, that all would be collectively referred</p> <p>16 to as chemical agents.</p> <p>17 Q Okay. So again, the answer to my</p> <p>18 question is, there is a specific definition for the</p> <p>19 term "chemical agents" as it's used in the</p> <p>20 Templeton Settlement Agreement; is that a fair</p> <p>21 statement?</p> <p>22 A Yes.</p> <p>23 Q And that definition includes tear</p> <p>24 gas, inert smoke, pepper gas, or other chemical;</p> <p>25 correct?</p>	<p>1 of --</p> <p>2 A I'm focusing on what you're saying to</p> <p>3 make sure that I'm understanding as I don't want to</p> <p>4 answer incorrectly.</p> <p>5 Q I appreciate it. Am I correct there</p> <p>6 is no language in the Templeton Settlement</p> <p>7 Agreement that indicates that only pepper gas</p> <p>8 deployed using a fogger is included in the</p> <p>9 definition of "chemical agents"; is that correct?</p> <p>10 A I believe that's correct.</p> <p>11 Q Bottom line, regardless how pepper</p> <p>12 spray is deployed, it is covered within the</p> <p>13 definition of "chemical agents" under the Templeton</p> <p>14 Settlement Agreement?</p> <p>15 A Yes.</p> <p>16 Q Gotcha. I have a long question.</p> <p>17 A Okay.</p> <p>18 Q And I'm going to read it. If you</p> <p>19 need me to repeat it, I'm happy to do so.</p> <p>20 Under the Templeton Settlement</p> <p>21 Agreement, do you agree that absent circumstances</p> <p>22 that present imminent threat of bodily harm, police</p> <p>23 officers could not use handheld pepper spray for</p> <p>24 the purpose of dispersing groups of individuals</p> <p>25 engaged in non-criminal activity without, among</p>
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<p>1 A Yes.</p> <p>2 Q And I think we established it before</p> <p>3 but again, you agree with me that pepper spray, OC</p> <p>4 spray and mace all have the same chemical</p> <p>5 composition; correct?</p> <p>6 A Yes.</p> <p>7 Q And am I correct that the definition</p> <p>8 of "chemical agents" and in the Templeton</p> <p>9 Settlement Agreement does not distinguish based on</p> <p>10 the manner by which the pepper gas would be</p> <p>11 deployed against protesters?</p> <p>12 A It does not.</p> <p>13 Q Am I correct there's no language in</p> <p>14 the Templeton Settlement Agreement that indicates</p> <p>15 that pepper gas deployed using an individual</p> <p>16 handheld device is not included in the definition</p> <p>17 of "chemical agents"; is that correct?</p> <p>18 A That is correct.</p> <p>19 Q And am I correct there is no language</p> <p>20 in the Templeton Settlement Agreement that</p> <p>21 indicates that only pepper gas deployed using a</p> <p>22 fogger is included in the definition of "chemical</p> <p>23 agents"; is that correct?</p> <p>24 A I'm sorry, I'm confused.</p> <p>25 Q I'll ask -- I'm covering all kinds</p>	<p>1 other things, first providing a clear and</p> <p>2 unambiguous warning that chemical agents would be</p> <p>3 utilized and providing those individuals with</p> <p>4 sufficient opportunity to heed the warning and exit</p> <p>5 the area?</p> <p>6 A Yes.</p> <p>7 Q Under the Templeton Settlement</p> <p>8 Agreement, do you agree that absent circumstances</p> <p>9 present imminent threat of bodily harm, police</p> <p>10 officers could not use handheld pepper spray on</p> <p>11 individuals engaged in non-criminal activity for</p> <p>12 the purpose of frightening them or punishing them</p> <p>13 for exercising their constitutional rights?</p> <p>14 A That is correct.</p> <p>15 Q Okay. Thank you.</p> <p>16 A Is this a good time for a break?</p> <p>17 MR. PRAISS: Absolutely. You've got</p> <p>18 the toughest job here today. Well, she has the</p> <p>19 toughest job, I take it back. Tara has the hardest</p> <p>20 job. But when either of you need a break,</p> <p>21 seriously, just let me know. As long as I ask --</p> <p>22 don't ask for a break when there's a question</p> <p>23 pending. That's all.</p> <p>24 THE WITNESS: No, of course not.</p> <p>25 (Off the record.)</p>

25 (Pages 97 to 100)

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1 (Plaintiffs' 30(b)(6) Exhibit 7  
2 marked for identification by the court reporter.)  
3 Q (BY MR. PRAISS) Mr. Larson, I've  
4 hand you had what's within marked as Exhibit Number  
5 7.  
6 Do you see that?  
7 A I do.  
8 Q And it says Declaration of Jerome  
9 Baumgartner that was submitted as Defendant's  
10 Exhibit 1 in connection with a preliminary  
11 injunction hearing I'll represent to you?  
12 A Yes.  
13 Q So it's part of a court file. Have  
14 you ever seen this exhibit before today?  
15 A I have not seen the Declaration. I  
16 have seen the Special Order behind it.  
17 Q Perfect. If you go to paragraph 6 of  
18 Mr. Baumgartner's Declaration, I'll read it into  
19 the record. "On January 7, 2015, a temporary  
20 directive on the use of chemical agents for  
21 dispersing groups engaged in peaceful, non-criminal  
22 activity was put in immediate effect, pursuant to  
23 the matter then before the US District Court and is  
24 attached as Exhibit B."  
25 Do you see that?

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1 A I do.  
2 Q Okay. If you could go to Exhibit B,  
3 please, of Mr. Baumgartner's Declaration, and do  
4 you see at the top of it, it says Directive  
5 2015-01-07?  
6 Do you see that?  
7 A Yes.  
8 Q Am I correct that's -- the date there  
9 is referring to July 1, 2015? Is that your  
10 understanding?  
11 A That is correct.  
12 Q Okay. Am I correct the directive  
13 went into effect on that date?  
14 A Correct. This is considered a  
15 temporary directive by the St. Louis Police  
16 Department and it was put into effect.  
17 Q Okay. Take as much time as you need  
18 just to refresh your recollection of the terms of  
19 the temporary directive and I'll ask you some  
20 questions about it. Let me know when you're ready.  
21 A Okay. I believe I'm ready.  
22 Q And if you could compare the terms of  
23 the temporary directive to the terms of the  
24 Templeton Settlement Agreement, let me know when  
25 you have those side by side, I'll ask you some

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1 questions.  
2 A Okay.  
3 Q Am I correct that to a large extent,  
4 that temporary directive tracks the approach taken  
5 under the Templeton Settlement Agreement in terms  
6 of laying out under what circumstance, if any,  
7 police could use chemical agents in the context of  
8 dispersing groups of individuals?  
9 A It does.  
10 Q Okay. Am I correct that the  
11 temporary directive includes the same essential  
12 requirements before chemical agents could be used  
13 to disperse groups of individuals who are engaged  
14 in peaceful, non-criminal activity; am I correct?  
15 A You are correct.  
16 Q Okay. Am I correct that the  
17 temporary directive, similar to the Templeton  
18 Settlement Agreement, includes a definition for  
19 "chemical agents"?  
20 A It does.  
21 Q Am I correct that the definition of  
22 "chemical agents" in the Templeton Settlement  
23 Agreement and in the temporary directive is  
24 identical?  
25 A Yes.

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1 Q So is it fair to say all the answers  
2 to the questions I asked you before, with respect  
3 to the Templeton Settlement Agreement, in terms  
4 what's included or not included, applies here?  
5 A Yes.  
6 Q And in particular, am I correct that  
7 the temporary directive does not distinguish in any  
8 way, based on the manner by which pepper gas would  
9 be deployed against protesters?  
10 A It does not speak to the manner of  
11 deployment.  
12 Q So am I correct that the temporary  
13 directive applies to pepper spray regardless  
14 whether it's deployed using a handheld device, a  
15 fogger, or some other device?  
16 A It does.  
17 Q Okay. I got two long questions for  
18 you again. I'll go slow to make sure you have a  
19 chance to absorb it.  
20 Am I correct that under the temporary  
21 directive, police officers could not use handheld  
22 pepper spray for the purpose of dispersing groups  
23 of individuals engaged in peaceful, non-criminal  
24 activity without, among other things, first  
25 providing a clear and unambiguous warning that

26 (Pages 101 to 104)

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<p>1 chemical agents will be utilized and providing</p> <p>2 those individuals with sufficient opportunity to</p> <p>3 heed the warning and exit the area?</p> <p>4 A Yes.</p> <p>5 Q Okay. Am I correct that under the</p> <p>6 temporary directive, police officers could not use</p> <p>7 handheld pepper spray on individuals engaged in</p> <p>8 peaceful, non-criminal activity for the purposes of</p> <p>9 frightening them or punishing them for exercising</p> <p>10 their constitutional rights?</p> <p>11 A Yes.</p> <p>12 Q Thank you. If you go to Mr.</p> <p>13 Baumgartner's Declaration and look on paragraph 7,</p> <p>14 it indicates that the "temporary directive was sent</p> <p>15 to all commissioned officers via the Policy</p> <p>16 Acknowledgment System for review and</p> <p>17 acknowledgment."</p> <p>18 Do you see that?</p> <p>19 A I do.</p> <p>20 Q Okay. The Policy Acknowledgment</p> <p>21 System is abbreviated as the PAS System?</p> <p>22 A PAS System.</p> <p>23 Q Thank you. When something like the</p> <p>24 temporary directive is sent to all commissioners</p> <p>25 and officers using a PAS System, is a complete copy</p>	<p>1 A It is.</p> <p>2 Q When that's done, how is that</p> <p>3 information conveyed to police officers using the</p> <p>4 PAS System?</p> <p>5 A Monthly a notice is sent from the PAS</p> <p>6 System to all commissioned members of the</p> <p>7 department, I believe it would go even all members</p> <p>8 of the department, and within that guideline is</p> <p>9 this is the monthly use of force reminder. As part</p> <p>10 of that, there will be a test as far as several</p> <p>11 questions regarding specific elements of use of</p> <p>12 force.</p> <p>13 And the employee reviews the order,</p> <p>14 can review the order, it's there in its entirety,</p> <p>15 and then can -- and then takes the test, which they</p> <p>16 have to pass before the order is considered signed.</p> <p>17 Q Is the entirety of Special Order 1-01</p> <p>18 included as part of that communication to the</p> <p>19 commission officers?</p> <p>20 A A link. There's a button on the side</p> <p>21 that says "Review." When you hit the "Review," it</p> <p>22 will generate the order.</p> <p>23 Q Is it a requirement that they review</p> <p>24 the Special Order or is it sufficient that they</p> <p>25 simply answer the questions?</p>
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<p>1 of the temporary directive sent or is it just a</p> <p>2 short, brief summary?</p> <p>3 A No, the entire -- the entire</p> <p>4 directive, the text of -- this text would be sent.</p> <p>5 Q Okay. Are there times when the PAS</p> <p>6 System is used as a vehicle for training purposes</p> <p>7 where, rather than attach the actual document, a</p> <p>8 just one or two line sentence abbreviation is</p> <p>9 provided?</p> <p>10 A It can be used as a notification</p> <p>11 method, much like you're describing. It can also</p> <p>12 be used as a training where it links to certain</p> <p>13 videos and things would be supplied.</p> <p>14 Q Okay. With respect to, for example,</p> <p>15 the use of force policy, for example -- when I say</p> <p>16 the use of force policy, what do you understand</p> <p>17 that to mean?</p> <p>18 A The use of force policy would be the</p> <p>19 policy that is outlined in Special Order 1-01.</p> <p>20 Q The entirety of Special Order 1-01?</p> <p>21 A Yes.</p> <p>22 Q Okay. Is there -- is the PAS System</p> <p>23 used with respect to ensuring that police officers</p> <p>24 are up to date on their knowledge of Special Order</p> <p>25 1-01?</p>	<p>1 A They must answer the questions to</p> <p>2 sign the order. They are not required to review</p> <p>3 the order in order to sign it.</p> <p>4 Q Is there a requirement that they have</p> <p>5 to answer all the questions correctly in order to</p> <p>6 pass?</p> <p>7 A Yes.</p> <p>8 Q All officers getting the same</p> <p>9 questions at the same time?</p> <p>10 A There is a multiple rotating number</p> <p>11 of questions that officers are sent, so it's not</p> <p>12 the same exact test every month.</p> <p>13 Q Okay. If you look at paragraph 8 of</p> <p>14 Mr. Baumgartner's Declaration, if you take a minute</p> <p>15 to read that? You see that indicates that the</p> <p>16 temporary directive we have been looking at,</p> <p>17 Exhibit B to Mr. Baumgartner's Declaration, became</p> <p>18 Section XIII of Special Order 1-01 which was issued</p> <p>19 on July 10, 2015.</p> <p>20 Do you see that?</p> <p>21 A I do.</p> <p>22 Q And it indicates in that, "Section</p> <p>23 XIII of Special Order 1-01 outlines the policy for</p> <p>24 deployment of chemical agents for crowd dispersal,</p> <p>25 and identifies the restrictions, consistent with</p>

27 (Pages 105 to 108)

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<p>1 the Settlement Agreement issued by the US District 2 Court" in the Templeton matter; correct? 3 A Yes. 4 Q Okay. Is it fair to say that Section 5 XIII of Special Order 1-01 was implemented pursuant 6 to the Templeton Settlement Agreement? 7 A Yes. 8 Q Is it fair to say that in adopting 9 Section XIII of Special Order 1-01, the City wanted 10 this new provision to be consistent with the terms 11 of the Templeton Settlement Agreement? 12 A Yes. 13 Q Other than Section XIII of Special 14 Order 1-01, as of September 2017, the City have any 15 other policies relating to when police officers 16 could deploy chemical agents for crowd dispersal? 17 A No. 18 Q Other than Section XIII of Special 19 Order 1-01, does the City presently have any other 20 policies relating to when police officers can 21 deploy chemical agents for crowd dispersal? 22 A No. 23 Q If you go to Exhibit C of Mr. 24 Baumgartner's Declaration, am I correct that has 25 Section XIII of Special Order 1-01?</p>	<p>1 Section XIII of Special Order 1-01 consistent with 2 the terms of the Templeton Settlement Agreement, 3 why did the City choose not to include a definition 4 for "chemical agents"? 5 A We didn't include a definition but 6 they included the listing of chemical agents under 7 Section A. Chemical agent equipment. So we didn't 8 define "chemical agents." We listed them, those 9 that were available to the SWAT unit. 10 Q Could you please compare the 11 definition of -- specifically look at the 12 definition of "chemical agents" both in the 13 Templeton Settlement Agreement and the temporary 14 directive, and confirm to me whether all the items 15 identified in those definitions are included in 16 Section XIII of Special Order 1-01. 17 A I believe they are. 18 Q Do you see a reference to the term 19 "tear gas," for example? 20 A I do. 21 Q That's included in the Settlement 22 Agreement and the temporary directive; correct? 23 A It is. 24 Q Is that included anywhere on Section 25 XIII, Special Order 1-01?</p>
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<p>1 A Yes. 2 Q Please take as much time as you need 3 to review Special Order XIII. Let me know when 4 you're ready. 5 A I believe I'm ready. 6 Q Okay. Is this is one of the 7 documents you specifically testified before you 8 reviewed in preparing for today's deposition? 9 A It is. 10 Q Gotcha. Did you speak with anyone 11 other than the City's attorneys with respect to 12 Special Order XIII? 13 A I did not. 14 Q And I misspoke. Section XIII of 15 Special Order 1-01. 16 A No, I'm sorry, I did not. 17 Q And am I correct that nowhere in 18 Section XIII of Special Order 1-01 is there a 19 definition for the term "chemical agents"? 20 A There is not. 21 Q Okay. Help me understand, if the 22 City's stated objective was to issue Special Order 23 -- strike that. 24 Help me understand if, as you 25 testified, the City's objective was to issue</p>	<p>1 A It is under CS gas. CS gas is 2 considered a tear gas, versus OC, which is 3 considered a mace. 4 Q Is it your testimony that the 5 language used under the term "chemical agent 6 equipment" in Section A of Special -- of Section 7 XIII of Special Order 1-01 essentially has exactly 8 the same meaning as the definition of "chemical 9 agents" in the Templeton Settlement Agreement and 10 the temporary directive? 11 A Yes. 12 Q Okay. I think we have established 13 unequivocally that it's the City's understanding 14 that under the Templeton Settlement Agreement and 15 the temporary directive, that they both include 16 pepper spray in any form, whether deployed using a 17 handheld device or a fogger; correct? 18 A Yes. 19 Q Is it the City's understanding that 20 handheld pepper spray is or is not included under 21 Section XIII of Special Order 1-01? 22 A I believe it would be included. 23 Q Is there any training provided to 24 police officers specifically about that issue, 25 whether handheld pepper spray is covered under</p>



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<p>1 Section XIII of Special Order 1-01 or is it</p> <p>2 exclusively covered under the Section VI that we</p> <p>3 looked at before about handheld pepper spray?</p> <p>4 Mace?</p> <p>5 A As it relates to dispersement and</p> <p>6 crowd, it would be listed here in XIII. As it</p> <p>7 relates to the individual officers' use for</p> <p>8 affecting arrests of individuals under general</p> <p>9 circumstances, the deployment methodology is listed</p> <p>10 in Section VI.</p> <p>11 Q Would you agree with me that it's not</p> <p>12 difficult to envision circumstances where those two</p> <p>13 circumstances conflate and get very close to one</p> <p>14 another?</p> <p>15 A Yes. I would agree with that.</p> <p>16 Q For example, in the situation of a</p> <p>17 kettle, a police officer standing at that moment,</p> <p>18 trying to interact with a protester, in his or her</p> <p>19 mind could think, I am under -- my actions are</p> <p>20 governed by Section VI because I'm trying to</p> <p>21 effectuate an arrest, or equally could think, no,</p> <p>22 my actions are governed by Section XIII because</p> <p>23 we're trying to disperse the heck out of this crowd</p> <p>24 and they've ignored dispersal orders.</p> <p>25 That's very plausible; right?</p>	<p>1 under Section XIII, and here is which one applies</p> <p>2 under what circumstances.</p> <p>3 Has that ever been done, to your</p> <p>4 knowledge?</p> <p>5 A No.</p> <p>6 Q Okay.</p> <p>7 MR. DIERKER: Excuse me. But we've</p> <p>8 been referring to Section VI.</p> <p>9 A It's actually Section IV.</p> <p>10 MR. DIERKER: And it's actually</p> <p>11 Section IV.</p> <p>12 Q (BY MR. PRAISS) When I said Section</p> <p>13 VI in the last few minutes a couple times, you</p> <p>14 understood I was referring to Section IV, which is</p> <p>15 the provision we looked at and we marked before</p> <p>16 dealing with handheld mace; correct?</p> <p>17 A I understood you to be referring to</p> <p>18 the section of the order that refers to mace.</p> <p>19 Q Thank you very much, and thank you</p> <p>20 for correcting me. I said it once and no one</p> <p>21 corrected me, so I kept saying it.</p> <p>22 MR. DIERKER: Well, I needed to</p> <p>23 double check myself, so.</p> <p>24 A And I think that was my fault. I</p> <p>25 misquoted the Roman numerals in my initial</p>
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<p>1 A Yes.</p> <p>2 MR. DIERKER: I'm a little late in my</p> <p>3 objection to the form, but...</p> <p>4 MR. PRAISS: It's quite all right.</p> <p>5 Q (BY MR. PRAISS) And recognizing that</p> <p>6 the scenario that I'm laying out there is quite</p> <p>7 possible -- plausible, I misspoke, my question is,</p> <p>8 again, are you aware of any specific training</p> <p>9 provided to police officers who find themselves in</p> <p>10 that situation where they're trying to decide am I</p> <p>11 going to be under Section VI or Section XIII of</p> <p>12 Special Order 1-01 in terms of how I use this</p> <p>13 handheld device?</p> <p>14 A I am not aware of any specific</p> <p>15 training related to that.</p> <p>16 Q Okay. Are you aware of any documents</p> <p>17 that deal with that issue?</p> <p>18 A No, not outside the orders we've</p> <p>19 discussed.</p> <p>20 Q Are you aware of any specific</p> <p>21 communications using the PAS System where it was</p> <p>22 communicated to police officers at any time, before</p> <p>23 or after the Stockley protests, saying there's two</p> <p>24 different provisions that handheld pepper mace are</p> <p>25 covered by, Section VI and, yes, it's also covered</p>	<p>1 statement.</p> <p>2 Q (BY MR. PRAISS) I'm still trying to</p> <p>3 understand why, from a practical perspective, when</p> <p>4 the issue -- when the City issued the Templeton --</p> <p>5 the temporary directive, it made a conscious</p> <p>6 decision to track the language in the Templeton</p> <p>7 Settlement Agreement. You recall that?</p> <p>8 A I was not part of the creation of the</p> <p>9 temporary directive, but yes, the intent was to</p> <p>10 mirror the Settlement Agreement.</p> <p>11 Q And you've testified as a</p> <p>12 representative that the same intent applied when</p> <p>13 the City adopted Section XIII of Special Order</p> <p>14 1-01. Correct?</p> <p>15 A Yes.</p> <p>16 Q Recognizing that, is there a reason</p> <p>17 why the City did not track and include that same</p> <p>18 definition for "chemical agents" but rather just</p> <p>19 blended it in in different sections of 1 and 2</p> <p>20 under the heading A? If you are aware of any</p> <p>21 reason?</p> <p>22 A I'm not aware of any reason.</p> <p>23 Q Okay. But it is your testimony, as</p> <p>24 the corporate representative today, that handheld</p> <p>25 pepper spray, to the extent it's used in connection</p>

29 (Pages 113 to 116)

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<p>1 with crowd dispersal, is included within the terms</p> <p>2 and requirements of Section XIII of Special Order</p> <p>3 1-01?</p> <p>4 A Yes.</p> <p>5 Q Okay. So to the extent an officer in</p> <p>6 connection with let's say the kettle understood</p> <p>7 they were trying to disperse the individuals for</p> <p>8 failure to heed their warnings of dispersal, that</p> <p>9 officer's conduct should be judged under Section --</p> <p>10 the terms of Section XIII of Special Order 1-01?</p> <p>11 A Yes.</p> <p>12 Q Okay.</p> <p>13 MR. DIERKER: Would now be a good</p> <p>14 time to break for lunch?</p> <p>15 MR. PRAISS: This is probably less</p> <p>16 than five minutes. A few questions here and --</p> <p>17 even though this was previously marked, could you</p> <p>18 add the stickers?</p> <p>19 (Plaintiffs' 30(b)(6) Exhibit 8</p> <p>20 marked for identification by the court reporter.)</p> <p>21 Q (BY MR. PRAISS) Mr. Larson, I'm</p> <p>22 going to hand you what's been marked as Deposition</p> <p>23 Exhibit 8. Do you have that?</p> <p>24 A Yes, you've given it to me.</p> <p>25 Q Do you see at the very top it</p>	<p>1 Q -- that captures that moment when the</p> <p>2 police came in from four different directions and</p> <p>3 surrounded a bunch of protesters?</p> <p>4 A I will say this picture indicates</p> <p>5 what appears to be a mass arrest scenario.</p> <p>6 Q Do you recognize this to be at the</p> <p>7 corner of Washington and Tucker where the kettle</p> <p>8 took place?</p> <p>9 A Yes.</p> <p>10 Q Gotcha. And the timing of it</p> <p>11 corresponds to when the kettle took place, around</p> <p>12 11:30 p.m.; correct?</p> <p>13 A Yes.</p> <p>14 Q Can you see, literally right in the</p> <p>15 middle of the picture, there is a nice foggy area</p> <p>16 there.</p> <p>17 Do you see that?</p> <p>18 A Mm-hmm, I do.</p> <p>19 Q Do you recognize that to be spray</p> <p>20 from a fogger being used against the individuals in</p> <p>21 that area?</p> <p>22 A It could be. I can't say what it is.</p> <p>23 Q Okay. Would you agree with me that</p> <p>24 in the situation -- assuming that when the judge</p> <p>25 looks at the video and you watch it slowly, it</p>
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<p>1 indicates this is a picture that was taken from</p> <p>2 Washington and Tucker?</p> <p>3 A Okay.</p> <p>4 Q Do you see the number 2? Do you know</p> <p>5 what that signifies, if anything, next to</p> <p>6 Washington and Tucker top left?</p> <p>7 A I assume it's a camera.</p> <p>8 Q And if you look carefully on the</p> <p>9 bottom in blue, you can read that it looks like it</p> <p>10 was taken around 11:30 p.m. on September 17, 2017.</p> <p>11 Do you see that?</p> <p>12 A Yes, it appears to be a time stamp.</p> <p>13 Q Do you recognize this to be a picture</p> <p>14 of the police surrounding the individuals in what</p> <p>15 is known as the kettle?</p> <p>16 A It is a picture that represents</p> <p>17 officers around individuals. We don't in the</p> <p>18 police department recognize the term "kettle," so</p> <p>19 any questions that you have on that, I'm a bit --</p> <p>20 Q You do know we have two topics that</p> <p>21 use the term "kettle"?</p> <p>22 A Yes, I saw that in here, but...</p> <p>23 Q Is there a different term that you</p> <p>24 prefer for me to use --</p> <p>25 A No.</p>	<p>1 becomes abundantly clear that there is an OC spray</p> <p>2 being used to effectuate against the people there.</p> <p>3 A Mm-hmm.</p> <p>4 Q Help me understand, in light of the</p> <p>5 Section XIII of Section 1-01, that includes the</p> <p>6 requirement that chemical agents would not be used</p> <p>7 unless the third requirement being that the impact</p> <p>8 of chemical agents on individuals who are complying</p> <p>9 with lawful law enforcement commands is minimized,</p> <p>10 how is the use of a fogger in this situation</p> <p>11 consistent with that restriction?</p> <p>12 MR. DIERKER: I'll object to the form</p> <p>13 of the question, it assumes facts not in evidence,</p> <p>14 calls for an opinion, speculation. But you may</p> <p>15 answer.</p> <p>16 A At this point, they may be effecting</p> <p>17 arrests and there may be resistings occurring. I</p> <p>18 can't say that, at this point in time, that the</p> <p>19 four elements of giving the warning, attempting to</p> <p>20 get those who wished to comply the opportunity to</p> <p>21 comply, that has or has not occurred, I can't say,</p> <p>22 but, you know, based on this picture, it is very</p> <p>23 difficult, when using a fogger, to minimize the</p> <p>24 risks to those in the immediate area, including</p> <p>25 other police officers.</p>

30 (Pages 117 to 120)

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1       **Q** (BY MR. PRAISS) And with that in  
2 mind, why is the use of a fogger used specifically  
3 in these context, knowing that it, by definition,  
4 is contrary to the restriction about minimizing the  
5 harm to other people who are being compliant and  
6 lawful?  
7       A I can't answer that.  
8       **Q** Again, you're the City's  
9 representative, so the buck stops with you for  
10 better or worse today, Mr. Larson --  
11       A I understand, sir.  
12       **Q** -- and you are on the hot seat.  
13       A Yes.  
14       **Q** You know, this is the Special Order  
15 that governs the dispersal, the deployment of  
16 chemical agents for crowd dispersal. Under  
17 Chemical Agent Equipment it specifically identifies  
18 high-capacity, extended-range OC spray being issued  
19 to sergeants; correct?  
20       A Yes.  
21       **Q** That high-capacity, extended-range OC  
22 spray, by definition, covers a large area unlike a  
23 handheld pepper spray device; correct?  
24       A It does.  
25       **Q** Okay. And am I correct that

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1 high-capacity, extended-range OC spray was in fact  
2 utilized in connection with the Stockley protest;  
3 correct?  
4       A It was.  
5       **Q** My question to you is, as a policy,  
6 why does the City have -- allow the use of  
7 high-capacity, extended-range OC spray in the  
8 context where there is a group of individuals when  
9 it's very likely that within them there may be some  
10 who are complying and acting lawfully, which would  
11 then mean it contravenes the Special Order?  
12       MR. DIERKER: Object to the form of  
13 the question.  
14       A I would say that as -- it's a tool,  
15 as any other tool, and the application for it  
16 depends on the -- on the circumstances. So the  
17 fact that we are not restricting the tools that are  
18 available, it may not have been the best tool to be  
19 utilized at the time, but in the event of it, is a  
20 tool that is available for use and, therefore, we  
21 don't restrict the use of it.  
22       **Q** (BY MR. PRAISS) You are aware that  
23 high-capacity, extended-range OC spray was in fact  
24 utilized in connection with the Stockley protest?  
25       A Yes.

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1       **Q** To the extent it was used rather than  
2 handheld device, do you agree that that likely  
3 violated the restrictions about trying to minimize  
4 the impact of chemical agents on individuals who  
5 were compliant because instead a handheld device  
6 should have been used?  
7       A Can you give that to me again?  
8       **Q** Sure. I think we've established that  
9 at different points in time, and in particular in  
10 connection with the kettle, high-capacity,  
11 extended-range OC spray was utilized; correct?  
12       A Correct.  
13       **Q** And I think we've established that  
14 the use of high-capacity, extended-range OC spray  
15 covers a larger area than a handheld pepper spray;  
16 correct?  
17       A Correct.  
18       **Q** And as a result, the use of  
19 high-capacity, extended-range OC spray likely will  
20 impact individuals who may be lawful and compliant;  
21 correct?  
22       A It can.  
23       **Q** And my question to you is, do you  
24 agree that the use of high-capacity, extended-range  
25 OC spray in the context of, let's say, the kettle,

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1 where there was a significant number of people,  
2 some of whom were acting lawfully and just got  
3 caught up in the situation, rather than handheld  
4 device, contravened Section XIII of Special Order  
5 1-01 because a handheld device, unlike the OC  
6 spray, would have minimized the impact?  
7       A No, because the -- also in Special  
8 Order is the statement that the above provisions do  
9 not apply to situations that turn violent when  
10 persons at the scene present immediate threats to  
11 bodily injuries, property damage, things of that  
12 nature, so that would take out the minimization  
13 requirement there. So I think we agree in  
14 principle but perhaps in execution is where we're  
15 having the issue.  
16       **Q** I like the fact that you went to that  
17 provision as your so-called safety net here, Mr.  
18 Larson, but I'm going to probe a little bit about  
19 that.  
20       A Of course you are.  
21       **Q** In connection with the kettle -- and  
22 I know you may not like the term but it's an easy,  
23 short-term abbreviation for what happened around  
24 11:30 at night on September 17th. Are you aware of  
25 any individuals who were acting violently at the

31 (Pages 121 to 124)

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<p>1 scene such that they presented an imminent threat</p> <p>2 of bodily harm to persons or damage to property</p> <p>3 when officers tried to arrest them?</p> <p>4 A No.</p> <p>5 Q Okay. Because I have not seen any</p> <p>6 when I looked at the videos and am I correct also</p> <p>7 that in fact none of the arrests were for acting</p> <p>8 violently? Nobody was charged with violent</p> <p>9 destruction of property in connection with the</p> <p>10 kettle; correct?</p> <p>11 A Not in connection with the kettle.</p> <p>12 Q So I'll go back my question where you</p> <p>13 resorted to what I'm calling your little safety net</p> <p>14 here.</p> <p>15 A Sure.</p> <p>16 Q In connection with the kettle, where</p> <p>17 we've now established there was no evidence --</p> <p>18 there is no evidence of anybody acting in a violent</p> <p>19 manner that presented imminent threat or bodily</p> <p>20 harm to persons or of damage to property, am I</p> <p>21 correct that the use of the high-capacity,</p> <p>22 extended-range OC spray, rather than the handheld</p> <p>23 pepper spray, contravened the terms of Section XIII</p> <p>24 of Special Order 1-01 because, by definition, it</p> <p>25 was going to impact a greater number of individuals</p>	<p>1 trying to effectuate arrests; correct?</p> <p>2 A Yes, they were trying to a mass</p> <p>3 arrest of all the individuals there.</p> <p>4 Q But none of those individuals are</p> <p>5 acting violently and presenting imminent threat of</p> <p>6 harm to them?</p> <p>7 A I --</p> <p>8 Q Are you aware of any evidence, sir,</p> <p>9 facts, that somebody was acting in a violent manner</p> <p>10 and presented imminent threat of harm that was</p> <p>11 documented by the police from the incident that</p> <p>12 occurred at 11:30 at Tucker and Washington?</p> <p>13 A I am not.</p> <p>14 Q Thank you. So again, with that in</p> <p>15 mind, the police officers that were congregating</p> <p>16 around the people there, they had a choice; would</p> <p>17 you agree with me? Option 1, they can go and</p> <p>18 effectuate their arrests using a handheld pepper</p> <p>19 spray device; correct?</p> <p>20 A Mm-hmm.</p> <p>21 Q Is that a yes?</p> <p>22 A Yes.</p> <p>23 Q Or they can do it using the</p> <p>24 high-capacity, extended-range OC spray; correct?</p> <p>25 A Correct.</p>
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<p>1 who were compliant with law enforcement?</p> <p>2 A No, I don't think so. I'm confused</p> <p>3 over the totality of the circumstances that took</p> <p>4 place during the effecting the arrests as far as</p> <p>5 utilizing this tool or not utilizing the tool.</p> <p>6 Q I'm going to go through it one more</p> <p>7 time and I'll accept your answer, whatever it is at</p> <p>8 the end, but I'm a little perplexed here.</p> <p>9 A Okay.</p> <p>10 Q We have a situation where around</p> <p>11 11:30 there is a kettle, there is a group of</p> <p>12 people.</p> <p>13 A Okay.</p> <p>14 Q You agree with me that it's likely</p> <p>15 that within that group of people some people</p> <p>16 weren't even protesters, they just got caught up in</p> <p>17 the situation; correct?</p> <p>18 A I believe that is one of the</p> <p>19 contentions.</p> <p>20 Q Yes. And we established that there's</p> <p>21 no evidence that anybody was acting violently and</p> <p>22 presented imminent threat of harm at that moment in</p> <p>23 time around 11:30 at night; correct?</p> <p>24 A Yes, we have established that.</p> <p>25 Q Okay. Police officers had -- were</p>	<p>1 Q And by definition, we have</p> <p>2 established that the high-capacity, extended-range</p> <p>3 OC spray, by its nature, is going to cover a larger</p> <p>4 range and spray a bunch of people?</p> <p>5 A Yes.</p> <p>6 Q If the requirements of the Section</p> <p>7 XIII, the third one is specifically saying that you</p> <p>8 cannot, per the terms of the Settlement Agreement,</p> <p>9 deploy chemical agents without satisfying all four</p> <p>10 elements and the third one is to minimize the</p> <p>11 impact on individuals, shouldn't those officers</p> <p>12 have been required to use handheld device rather</p> <p>13 than the OC spray?</p> <p>14 A I'm sorry, I'm processing.</p> <p>15 Q Take your time.</p> <p>16 A It would have been better to minimize</p> <p>17 the effects, I think, that to -- than using the</p> <p>18 fogger. So to minimize the effects to those who</p> <p>19 are not -- who are compliant. But yes.</p> <p>20 Q I'll accept that.</p> <p>21 A Okay.</p> <p>22 Q Let's do one more picture and then</p> <p>23 we'll take a break.</p> <p>24 (Plaintiffs' 30(b)(6) Exhibit 9</p> <p>25 marked for identification by the court reporter.)</p>

32 (Pages 125 to 128)

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1 Q (BY MR. PRAISS) Mr. Larson, do you  
2 have Exhibit 9 in front of you?  
3 A I do.  
4 Q This is another picture, if you look  
5 again at the top, it's indicates from the  
6 Washington and Tucker location?  
7 A Yes.  
8 Q And the time stamp on this one is  
9 just a few minutes before. It's at 11:25, again on  
10 September 17, 2017.  
11 Do you see that?  
12 A Yes.  
13 Q There is a -- if you look at the  
14 picture on the right side of it, do you see a  
15 police officer with a gas mask on and his right  
16 hand extended?  
17 A Yes.  
18 Q And can you tell that that officer is  
19 holding in his right hand an extended  
20 high-capacity, OC spray device?  
21 A That's what it appears to be.  
22 Q And do you see just right outside of  
23 it a mist in that area?  
24 A Yes.  
25 Q Again, in that situation the officer

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1 is directing that OC spray, it appears, based on  
2 the position of his hand, at the person who is  
3 standing with his hands up, or I don't know who  
4 else. Can you see who else it's pointing at?  
5 A It's pointing in the general  
6 directions of an individual with his hands up and  
7 there is an individual that appears to be in front  
8 of the officer. That's moving downward.  
9 Q Oh, the -- when you say "moving  
10 downward," are you pointing to the lady with her  
11 hands down?  
12 A I'm pointing to this individual here.  
13 Q Okay. Do you agree with me that the  
14 use of the OC spray device in that situation, by  
15 definition, would impact a great deal of people  
16 because they're all congregating in a very small  
17 area?  
18 A Yes.  
19 Q Okay. Do you agree with me again, it  
20 would have been preferable, at a minimum, to use  
21 your language, to use a handheld pepper spray  
22 device rather than the OC spray if your goal is to  
23 be compliant with the terms of Section XIII of  
24 Special Order 1-01?  
25 A Yes.

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1 Q Thank you.  
2 MR. PRAISS: Why don't we take a  
3 break.  
4 (Off the record.)  
5 Q (BY MR. PRAISS) Okay, Mr. Larson,  
6 back on the record, we had a nice kind of lunch  
7 break. If at any time later this afternoon you  
8 need to take a break again, just let me know.  
9 A I will, thank you.  
10 Q I want to close off a few more  
11 questions and then we'll move on to a new topic, I  
12 assure you, but I still want to focus on topics 12  
13 through 15, make sure I've covered everything.  
14 A Okay.  
15 Q If you look at the exhibit that was  
16 the Declaration of Mr. Baumgartner, do you have  
17 that? I think it's number 7?  
18 A I do.  
19 Q And if you go to Exhibit C within  
20 that which is Section XIII of Special Order 1-01?  
21 A Yes.  
22 Q There is the reference under Section  
23 A 2 that "High-capacity, extended-range OC spray is  
24 also issued to Sergeants and available at the Area  
25 Stations."

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1 A Yes.  
2 Q I just wanted to ask it, other than  
3 sergeants, does anybody else have use of -- had use  
4 of extended-range OC spray in connection with the  
5 Stockley protests?  
6 A It was issued primarily to  
7 supervisors. I can't say that it wasn't issued or  
8 delegated to someone else, but for the most part,  
9 the high-capacity, extended-range deployment  
10 canisters was for the sergeants only.  
11 Q And when it has a reference to the  
12 term "Area Stations," what is that referring to?  
13 A That refers to the three area patrol  
14 divisions. We have a north patrol, a central  
15 patrol, and a south patrol division.  
16 Q Okay. If you go to -- on the next  
17 page of it, there's Section D, Required Reporting?  
18 A Yes.  
19 Q And it indicates that, "When chemical  
20 agents are deployed for crowd dispersal, the  
21 Incident Commander will ensure that an I/LEADS,"  
22 all capital, "report is created to document their  
23 use," and it lays out certain details that have to  
24 be included.  
25 Do you see that?



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1 A Yes.

2 Q First of all, just for the record,

3 who was the incident commander for the Stockley

4 protest?

5 A I believe the incident commander was

6 Gerald Leyshock.

7 Q And do you know -- first of all, what

8 is the purpose of creating an I/LEADS report?

9 A To document the -- I/LEADS is our

10 records management system and the purpose of

11 creating it is to document incidents, both arrest

12 and the non-arrest situations, where we want to

13 have a record of it, so it's our -- it's how we

14 document police reports primarily.

15 Q And in this case particularly, it's

16 the I/LEADS -- strike that.

17 So the I/LEADS report can be used for

18 various different reporting scenarios; correct?

19 A Yes.

20 Q But in this case it specifies that an

21 I/LEADS report has to be created whenever chemical

22 agents are deployed for crowd dispersal; correct?

23 A It does.

24 Q Okay. And that's the policy of the

25 City of St. Louis?

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1 A Yes.

2 Q Okay. Are I/LEADS reports, are they

3 created by hand or on a computer?

4 A They are created in a computer. It

5 is a records management software tool that

6 basically is a framework device that -- and

7 information is entered manually into it.

8 Q Is it a searchable database?

9 A It is.

10 Q So if I wanted to find all the

11 I/LEADS report relating to the protests that -- on

12 the issue of the Stockley protests or the Molina

13 protests, the protests involving the Molina case,

14 it's not difficult to locate them, I assume?

15 A No, not if a report was prepared.

16 Q Okay. In those situations chemical

17 agent were deployed; correct?

18 A Then a report would be prepared and

19 we would have it.

20 Q Okay. When a report is prepared, is

21 it the standard practice that the one report is

22 used to encompass all incidents where chemical

23 agents are deployed, or is there a requirement that

24 for each incident where agents were deployed

25 against an individual or group of individuals,

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1 there's a separate report?

2 A It can be done both ways. It's

3 generally reports are created based on arrest

4 criteria, because when we arrest an individual, we

5 need their pedigree information, their charge

6 information, all of that, and that revolves around

7 a specific complaint number.

8 If multiple arrests are occurring in

9 a specific vicinity with the -- a substantially

10 same group of officers, it could all be included in

11 one complaint number. If this was multiple

12 locations, multiple commanders, then it might be

13 included -- the incidents may come under multiple

14 complaint numbers.

15 Q For example, in the situation of the

16 kettle on September 17, 2017, if at that evening

17 several different officers deployed chemical agents

18 at different groups of individual, would it have

19 been appropriate to have one single I/LEADS report

20 or several?

21 A It would most likely be most

22 appropriate to have one large because we're dealing

23 with one large incident in the downtown area.

24 However, that's not to say there weren't other

25 reports made based on, you know, if other officers

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1 in the fourth district may have made an arrest

2 downtown, that would have a separate complaint

3 number.

4 Q And to your knowledge, was an I/LEADS

5 report prepared either in the single or plural in

6 connection with the Stockley protests?

7 A I believe there were reports

8 prepared, yes.

9 Q Okay. Is it your understanding,

10 trying to be thorough here, that I/LEADS report,

11 either in plural or single, were prepared in

12 connection with the protests at Page and Walton

13 that are referenced in the Molina litigation?

14 A Yes.

15 Q And if I understood you correctly

16 before, your testimony was that Section XIII of

17 Special Order 1-01 that we're looking at applies to

18 the same chemical agents that were referenced in

19 the Templeton Settlement Agreement as well as the

20 temporary directive; correct?

21 A Yes.

22 Q And such that this Section XIII of

23 Special Order 1-01 applies to the use of handheld

24 pepper spray if it's done in connection with the

25 dispersal of individuals?

34 (Pages 133 to 136)

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1 A Yes.

2 Q Okay. And in those situations, to

3 the extent that a police officer used handheld mace

4 in connection with the kettle, would an I/LEADS

5 report have to be generated or reference that

6 incident?

7 A Yeah, in a mass arrest scenario, if

8 an officer was deploying mace to take individuals

9 into custody, it should be documented, yes.

10 Q Okay. So this gets to, in my mind a

11 little bit, that blurry line between Section IV,

12 Special Order 1-01 versus Section XIII. When an

13 officer deploys handheld pepper spray under the

14 terms of Section IV, Special Order 1-01, is an

15 I/LEADS report required?

16 A It is.

17 Q It is?

18 A Yes, under Section IV, it's a use of

19 force; therefore, it would require an I/LEADS

20 report.

21 Q Okay. Thank you for clarifying that

22 for me. Just want to now close the loop on some of

23 these topics if you have them in front of you.

24 A Sure.

25 Q Topic 12, I'll read it for the

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1 record, it says, "The City of St. Louis's policies

2 and/or practices concerning under what

3 circumstances police officers can use handheld

4 chemical agents, regardless of size of container."

5 Do you see that?

6 A Yes.

7 Q Is it fair to say that you have

8 provided me -- strike that.

9 Is it fair to say that the testimony

10 you've provided with respect to Section IV of

11 Special Order 1-01, as well as Section XIII of

12 Special Order 1-01, cover all the circumstance when

13 a handheld chemical agent could be used, regardless

14 of size or container?

15 A Yes.

16 Q There is no other provisions that the

17 City has that deal with the use of handheld pepper

18 spray in different circumstances?

19 A No, I believe those are the two.

20 Q Okay. Go to topic 13. That one

21 focuses on training with respect to exactly what I

22 just read about Section 12.

23 Do you see that?

24 A I do.

25 Q What specific steps did you take to

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1 prepare to testify as a representative with respect

2 to topic 13?

3 A I reviewed the Special Order, I

4 reviewed one of the training materials that the

5 academy provided relative to CDT deployment and the

6 CDT operations which referenced chemical agents and

7 the necessity to provide warrants.

8 Q I, off the top of my head, can't

9 visualize that document, so unless -- we can go off

10 the record.

11 (Off the record.)

12 Q (BY MR. PRAISS) Mr. Larson, you just

13 described an exhibit and it sounds like, with

14 respect to the training exhibit, we were going to

15 try and locate that and later on this afternoon

16 I'll ask you a few questions on it.

17 Other than that one which you

18 described as a two-page document dealing with

19 training issues, did you review any other documents

20 that relate to topic 13?

21 A I don't believe so.

22 Q Okay. Other than that document,

23 which we'll look at in more detail later, are you

24 aware of any other training materials that were

25 provided to police officers concerning under what

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1 circumstances they can use handheld chemical agents

2 regardless of size of container?

3 A No, other than what we discussed

4 previously today, the training document supplied by

5 the law department in August of 2017. That

6 training document I reviewed. I mean, it was a

7 classroom document.

8 Q No, I'm not looking at things you

9 reviewed. I'm looking at -- when I'm asking about

10 training, it's training to the police officers in

11 general.

12 A Right.

13 Q And we -- the document we looked at

14 before, which was Exhibit Number 6, that was, if I

15 recall your testimony you provided, just the senior

16 staff?

17 A Yes.

18 Q And it wasn't disseminated, as far as

19 you know, to all police officers?

20 A As far as I know.

21 Q Okay. Now you have just testified

22 there's about a two-page document that you do

23 believe you reviewed and was provided to all

24 officers; correct?

25 A No. It's an internal document

35 (Pages 137 to 140)

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1 discussing the outline of the training program for  
2 the materials that then Sergeant Jemerson, now  
3 Lieutenant Jemerson, would have conducted during  
4 CDT training.  
5 **Q** Okay. Other than that outline, are  
6 you aware of any actual written materials that Mr.  
7 Jemerson or somebody else uses in training police  
8 officers concerning under what circumstance they  
9 can use handheld chemical agents?  
10 A No.  
11 **Q** Do you know if any such training  
12 materials exist in writing?  
13 A To the best of my knowledge, those  
14 would all be incorporated in the document that we  
15 turned over relative to the other deposition  
16 request, so but no, I did not review them.  
17 **Q** When you say "the other document,"  
18 you're referring to the two-page document?  
19 A I'm referring to that as incorporated  
20 into a large lesson plan of series of materials  
21 that speak specifically to this issue, I believe.  
22 MR. PRAISS: Go off the record real  
23 quick.  
24 (Off the record.)  
25 **Q** (BY MR. PRAISS) Other than the

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1 two-page document that we'll hopefully get in the  
2 next couple hours and the POST document that you  
3 just referenced, are you aware of any other  
4 training materials that have been provided to  
5 police officers concerning under what circumstances  
6 they can use handheld chemical agents?  
7 A No, I am not.  
8 **Q** Thank you.  
9 Could you look real quick at the next  
10 topic? I think we are on 14.  
11 A Okay.  
12 **Q** And this one is similar to topic 12  
13 but focuses about the City's policies and practices  
14 concerning under what circumstance police officers  
15 can deploy chemical agents at protesters; correct?  
16 A Mm-hmm.  
17 **Q** Is that a yes?  
18 A Yes. Sorry.  
19 **Q** You have given us quite a bit of  
20 testimony with respect to Section XIII of Special  
21 Order 1-01.  
22 A Yes.  
23 **Q** Is that the only policy that the City  
24 has concerning when police officers can deploy  
25 chemical agents at protesters?

Page 143

1 A Yes.  
2 **Q** That was in place in September 2017  
3 and still in place today; correct?  
4 A It is.  
5 **Q** It's never been amended?  
6 A No.  
7 **Q** Okay. Is there anything about --  
8 strike that.  
9 Finally topic 15 goes with topic 14  
10 but simply asks for the training that's provided to  
11 police officers with respect to under what  
12 circumstance they can deploy chemical agents at  
13 protesters?  
14 A Right.  
15 **Q** Okay. Other than the two exhibits  
16 that you just referenced in response to my  
17 questions for topic 13, are you aware -- strike  
18 that. I apologize.  
19 The two documents that you just  
20 recently testified with respect to my questions  
21 relating to topic 13, is it your understanding that  
22 those documents are also responsive to topic 15?  
23 A Yes.  
24 **Q** Okay. Other than those two  
25 documents, are you aware of any other documents

Page 144

1 that have ever been provided to police officers  
2 concerning under what circumstance they can deploy  
3 chemical agents at protesters?  
4 A I am not.  
5 **Q** Okay. Again, I don't have the  
6 benefit of those two documents in front of me but  
7 separate from -- we know that those are the only  
8 documents that you're aware of, that have been used  
9 in training police officers about the use of  
10 chemical agents, whether in a protest action or in  
11 a different situation.  
12 How often is that training provided  
13 to police officers?  
14 A Relating to the documents that I'm  
15 referring to, the CDT outline, it is provided  
16 during CDT classes at the Police Academy. So every  
17 officer who is a graduate of the Police Academy,  
18 moving forward since 2014, and that's date of the  
19 training program, has been trained in CDT tactics,  
20 deployment, and when chemical munitions can and  
21 should be used or should not be used in civil  
22 disturbance cases.  
23 **Q** Okay. And that, if I understand you  
24 correct, that's taken place for officers since 2014  
25 as part of their training in the academy?

36 (Pages 141 to 144)

Page 145

1 A Correct.

2 Q Okay. What about officers prior to

3 2014 where we don't have the benefit of this

4 outline?

5 A Right. Officers prior to that time,

6 I mean, the -- we created the Civil Disobedience

7 Teams and civil disobedience training was conducted

8 during the creation of those individual teams.

9 Since we've been doing ongoing training of getting

10 more people trained within the City of St. Louis

11 Police Department to be CDT qualified, we've been

12 doing that. So there were trainings that took

13 place to get members onto the CDT team and then

14 there's ongoing trainings at the academy. For new

15 members. And there's refresher training as well

16 that is handled by the SWAT Team on units,

17 mobility, lot formations and deployments and how

18 and when they should be deployed.

19 Q Thank you. Your answer raises a few

20 follow-up questions.

21 A I'm sure they do.

22 Q Yes, but I want to break it in

23 pieces. First of all, two documents that you've

24 referenced in responding to the topics dealing with

25 training, one of them we know is dated 2014; right?

Page 146

1 A Correct.

2 Q The second document, what's the name

3 I should use for it?

4 A I believe it would be the POST

5 accreditation documents.

6 Q Okay. What's the date of that one,

7 if you know?

8 A I don't know.

9 Q Is it after 2014 or before?

10 A I don't know.

11 Q Prior to 2014, sitting here today as

12 the corporate representative, do you know what

13 documents, if any, were used in training police

14 officers about the use -- the deployment of

15 chemical agents?

16 A Oh, I don't -- I don't know.

17 Q Do you know if they had any

18 documents?

19 A I assume they had documents but I

20 don't know.

21 Q Okay.

22 A I would assume any training that

23 related to CDT that would have been handled through

24 the academy, the academy would have some

25 documentation of that type of training.

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1 Q Did you take any steps to learn that?

2 And I'm not trying to be mean here --

3 A No.

4 Q -- but I'm doing my job.

5 A Right.

6 Q I need to know, in preparing to

7 testify about topics 12 and 15, did you do any --

8 what efforts did you take to determine what

9 specific training materials were being used prior

10 to 2014 with respect to the deployment of chemical

11 agents?

12 MR. DIERKER: If I could interject, I

13 assume you're within the relevant time period

14 starting September 15, 2012. Is that --

15 MR. PRAISS: Yes, all my questions,

16 but there was a gap from 2012 and 2014 that I'm

17 trying to determine.

18 MR. DIERKER: That's fine. I just

19 want to be clear you weren't going back to the

20 foundation.

21 Q (BY MR. PRAISS) So my question is,

22 what steps did you take to determine what materials

23 were used in training police officers about the

24 deployment of chemical agents for the relevant time

25 period beginning in September of 2012 until 2014?

Page 148

1 A None.

2 Q And sitting here today you have no

3 knowledge one way or the other whether any training

4 materials did or didn't exist, you're just making

5 an assumption?

6 A Right. Correct.

7 Q And focusing on the time period, the

8 entire time period, do you know who were the

9 individuals who were responsible for training

10 police officers with respect to the deployment of

11 chemical agents?

12 A There is ongoing training through the

13 Police Academy on the -- how to use a chemical

14 agent, so how an officer uses their handheld mace.

15 That is an ongoing training process. The records

16 of that would be within the St. Louis Metropolitan

17 Police Department Academy.

18 The SWAT Team would be responsible

19 for their training related to the use of chemical

20 munitions, launchers, things of that nature. They

21 go through training programs related to that

22 specific. The SWAT commander, CDT commander,

23 Lieutenant Jemerson is responsible, or has been

24 responsible for training the CDT teams and on

25 providing the information on when to use and when

37 (Pages 145 to 148)

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1 not to use. Related to civil disturbances. And  
2 among others. I mean, there were other individuals  
3 in that role other than Lieutenant Jemerson at the  
4 time. He wasn't the SWAT commander during  
5 Stockley.  
6 **Q** If you know, the topics 15 topic 13,  
7 they're focusing not about how to use chemical  
8 agents but when it's appropriate to use it and when  
9 it's not appropriate.  
10 **Do you understand that?**  
11 **A** I do, and that would be part of the  
12 on -- the training on deployment. It's how we do  
13 it. How and when you would use chemical agents.  
14 **Q** And the sum and substance is that, if  
15 I want to understand -- strike that.  
16 **If I want to look at what training**  
17 **materials exist that, to your knowledge, from 2012**  
18 **until the present, with respect to when police**  
19 **officers can employ chemical agents, I just need to**  
20 **look at those two documents, the 2014 document you**  
21 **described as well as the POST accreditation and, to**  
22 **your knowledge, there are no other documents that**  
23 **have anything in writing that says when it's**  
24 **appropriate to use chemical agents?**  
25 **A** At this time, that's correct.

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1 **Q** Okay. I'll take a look at those in  
2 great detail after the deposition.  
3 **Do you know how long the training**  
4 **takes with respect to the circumstance when**  
5 **chemical agents should be used?**  
6 **A** I do not. I know that it is part of  
7 I believe a 16-hour course on CDT deployment. As  
8 to how many hours or minutes, I don't know.  
9 **Q** And you mentioned something about a  
10 refresher, I think, in one of your answers?  
11 **A** Yes.  
12 **Q** Is that refresher done through the  
13 PAS System or is that in person?  
14 **A** It's generally a method in which the  
15 SWAT Team creates a training day, the members of  
16 the CDT have to respond to the training day, and  
17 they work on the mechanical tactics and they cover  
18 use of force during that.  
19 **Q** During that use of force, do you have  
20 personal -- can you testify as a corporate  
21 representative under oath that there is actually  
22 information about when it's appropriate to use  
23 chemical agents rather than how to use chemical  
24 agents?  
25 **A** I believe the bulk of the training

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1 relates to how to use chemical agents and I can't  
2 say on when. I believe it is covered.  
3 **Q** We're not going to spend very much  
4 time on it but I'd like to at least cover with you  
5 briefly topics 16 and 17.  
6 **A** Okay.  
7 **Q** And again, these deal with, for lack  
8 of a better term, "kettle"?  
9 **A** Mm-hmm.  
10 **Q** And when I use the term "kettle," you  
11 understand that's referring to what transpired on  
12 September 17, 2017, around 11:30 at night, downtown  
13 St. Louis?  
14 **A** Yes.  
15 **Q** And you've indicated that the City  
16 itself doesn't use that term at all; correct?  
17 **A** That is correct.  
18 **Q** And nevertheless, if it's okay with  
19 you, I'll use it just as an abbreviation; is that  
20 okay?  
21 **A** Correct.  
22 **Q** To your knowledge, at any time, did  
23 the City have any policies or practices concerning  
24 the use of a kettle, referring to police officers  
25 coming in from four different directions to entrap

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1 a group of people that they want to arrest?  
2 **A** No. We do not have a policy  
3 outlining use of that tactic.  
4 **Q** To your knowledge, has the City ever  
5 used that tactic prior to September 17, 2017?  
6 **A** To the best of my knowledge, no.  
7 **Q** Did simply the incident commander or  
8 other individuals on the ground that evening come  
9 up with that approach on their own, out of thin  
10 air?  
11 **A** I believe so.  
12 **Q** Gotcha. Since September 17, 2017,  
13 has the City considered adopting any guidelines,  
14 policies or practices with respect to under what  
15 circumstance, if any, it is appropriate to use an  
16 approach such as a kettle in dealing with  
17 protesters?  
18 **A** We have not. We're waiting on  
19 determination of several things to revise or revamp  
20 certain aspects of our Special Orders to determine  
21 we're not looking, as this kettle or mass arrest  
22 scenario is -- has come -- become a topic of  
23 concern for the agency, we're in the process of  
24 determining what our next step is, policy wise, to  
25 avoid or ensconce and procedure what and how these



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1 methods should or could be utilize.  
2 **Q In a nutshell, am I hearing you**  
3 **correctly that the City basically is not doing**  
4 **anything to modify or change any of its policies or**  
5 **practices that relate to police interaction with**  
6 **protesters until this case is fully resolved?**  
7 **A No, I wouldn't make it as declaratory**  
8 **as you have made it. I mean, I think we are**  
9 **reviewing all types of information and we're**  
10 **constantly trying to figure out how we can do**  
11 **things better, how can we gain compliance, what are**  
12 **the best practices in this situation. I don't**  
13 **think we've determined what the best course of**  
14 **action is yet.**  
15 **Q But specifically, has the City, to**  
16 **your knowledge, since the court issued its**  
17 **preliminary injunction, done -- made any changes to**  
18 **whatever to any policies or practices that are**  
19 **relevant to what transpired in connection with the**  
20 **Stockley protest?**  
21 **A No, other than -- no. No. I don't**  
22 **think so.**  
23 **Q And is the reason the City hasn't**  
24 **done that is, is it because the City is waiting for**  
25 **final resolution of the litigation, or is it**

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1 **because it determined that there was no need to do**  
2 **it? That's what I'm trying to understand.**  
3 **A Right, and I think it's somewhere in**  
4 **between. We are trying to determine, A, what we**  
5 **need to do and how we need to do it and what is it**  
6 **that we should do.**  
7 **Q It's been quite a while since the**  
8 **court issued its order and so with respect to the**  
9 **statement that you made about that you're still**  
10 **evaluating, trying to determine, what's taking so**  
11 **long?**  
12 **A It's a process, like anything else,**  
13 **and processes take time.**  
14 **Q Let me ask you a question here on**  
15 **that.**  
16 **(Plaintiffs' 30(b)(6) Exhibit 10**  
17 **marked for identification by the court reporter.)**  
18 **Q (BY MR. PRAISS) I'm going to hand**  
19 **you what's been marked for identification purposes**  
20 **as Exhibit 10.**  
21 **A Yes.**  
22 **Q Are you familiar with Exhibit 10?**  
23 **A I am. Well, excuse me, I am not.**  
24 **It's a -- I am familiar in the fact that it is an**  
25 **email but I am not familiar with the content of the**

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1 email. I don't believe I've seen this email  
2 previously.  
3 **Q Just for the record, so at least the**  
4 **record is clear, this is an email dated October 11,**  
5 **2017, from Carl Filler, F-i-l-l-e-r, to the mayor**  
6 **of the City of St. Louis and Nicole Hudson.**  
7 **Do you see that?**  
8 **A I do.**  
9 **Q And it's referring to "Critical**  
10 **Incident Review Draft Scope of Works"?**  
11 **A Yes.**  
12 **Q If you could just take a minute and**  
13 **just look at substance of the email from Carl**  
14 **Filler to the mayor, as well as the material**  
15 **attached?**  
16 **A Mm-hmm.**  
17 **Q Let me know when you have had a**  
18 **chance to just glance at it.**  
19 **A Okay. Okay.**  
20 **Q Have you had a chance to look at**  
21 **Exhibit 10?**  
22 **A I have.**  
23 **Q For the record, I did mention before**  
24 **but you see Carl Filler is the senior policy**  
25 **advisor in the mayor's office?**

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1 **A Yes.**  
2 **Q Okay. Are you at all familiar with**  
3 **the information that's discussed in the attachment**  
4 **to this email?**  
5 **A No, I am not. I don't believe I saw**  
6 **this.**  
7 **Q Back to the line of questions we had**  
8 **just before I showed you this exhibit. My question**  
9 **to you was if you're aware of any specific changes**  
10 **made by the City of St. Louis with respect to any**  
11 **policies or practices that relate to the Stockley**  
12 **protest since the court issued its preliminary**  
13 **injunction, and you told me that because of the**  
14 **pending litigation and because it's an ongoing**  
15 **evaluation, that has not happened and no changes**  
16 **have been made; is that a fair summary?**  
17 **A I believe that is a fair summary.**  
18 **Q Okay. With respect to the statement**  
19 **by you that it's an ongoing process, I showed you**  
20 **this exhibit because I thought you might be**  
21 **familiar with it showing efforts done by the City.**  
22 **A Correct.**  
23 **Q When you say -- when you testify**  
24 **about ongoing efforts, what are you referring to?**  
25 **What ongoing efforts has the City done specifically**

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1 to evaluate whether it should amend, modify any of  
2 the policies or practices that were at issue in  
3 connection with the Stockley protests?

4 A And as I indicated, I guess what I  
5 should be clear on, is I understand that I am the  
6 City's representative. I don't -- I did not have  
7 access to the mayor's email in preparation for  
8 that. Most of my statements I think could be  
9 construed more directly with the St. Louis Police  
10 Department per se. So if there are events going on  
11 that -- such as this document on the opinions and  
12 scope of work for critical incident review, I may  
13 not be aware of them or was not aware.

14 But as I said, it's an ongoing  
15 process and there are a lot of people who are  
16 interested in making sure that we have a resolution  
17 and we get this right.

18 Q Just for the record, you do  
19 understand you're testifying here today not just on  
20 behalf of the St. Louis Metropolitan Police  
21 Department but on behalf of the City of which the  
22 St. Louis Metropolitan Police Department is  
23 subsumed within it; correct?

24 A Yes, I've been instructed to that.

25 Q Okay. I just want to make sure that

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1 was clear to you.

2 A Yes.

3 Q My question to you, Mr. Larson, is  
4 again, you make a generic statement that, and I  
5 believe you, that the City has an interest in  
6 having an ongoing evaluation with you of the  
7 policies and practices and making necessary  
8 changes. I want more specificity.

9 Can you identify for me sitting here  
10 today any specific steps that have been undertaken  
11 by the City in evaluating whether it's appropriate  
12 to amend, modify any policies or practices that are  
13 at issue with respect to the Stockley protest since  
14 September of 2017?

15 A No.

16 Q Okay. Back to topics 16 and 17. We  
17 covered topic 16. On topic 17, I'll let you catch  
18 up. Topic 17 deals with the "Training provided to  
19 police officers regarding the City's policies and  
20 practices concerning the use of a kettle."

21 And is it fair to say that there are  
22 no such training were provided at any time because  
23 there are no policies or practices concerning the  
24 use of a kettle?

25 A Yes.

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1 Q Okay. Did you review any video of  
2 the Stockley protest in preparation for today's  
3 deposition?

4 A I did not watch any video.

5 Q At any time did you watch any video  
6 of the Stockley protests?

7 A Only if video was being shown during  
8 the protest and it would be open source video. But  
9 no, I did not.

10 Q But not after the protest for some  
11 reason --

12 A No, certain -- no, not --

13 Q -- meet with people and review it?

14 A No. Well, wait a minute. We had  
15 several POST Stockley training sessions with the  
16 senior command on how things were done. They were  
17 kind of an after action review. I cannot recall if  
18 there was video as part of that or not. The  
19 sessions were composed at the direction of the  
20 chief's office and I believe Lieutenant Jemerson  
21 hosted those and distributed that information.

22 Q Do you recall approximately how many  
23 of those sessions there were?

24 A I believe there were at least two,  
25 possibly three.

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1 Q And Jemerson handled all of those?

2 A Yes.

3 Q Do you recall, this was again -- just  
4 a senior staff?

5 A Senior staff and possibly involved  
6 commanders, specialized unit commanders.

7 Q Okay. Were there any specific -- was  
8 it a PowerPoint or any other materials used in  
9 connection with those meetings?

10 A I don't recall. I believe there was  
11 a PowerPoint.

12 Q I'm not sure I've ever seen that  
13 PowerPoint.

14 MR. DIERKER: I know I have not.

15 A Well, and I could be completely  
16 wrong. We've done so many different after action  
17 reports related to incidents, I mean, I know we did  
18 one related to the workhouse. I can't recall --  
19 I'll be honest with you, I'm very confused this  
20 afternoon.

21 Q (BY MR. PRAISS) I definitely don't  
22 mean to confuse you and again, if you need a break  
23 at any time, just let me know, but again, you know,  
24 we have in front of us, for example, what's been  
25 marked before as Exhibit Number 6 --

40 (Pages 157 to 160)

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1 A Correct.

2 Q -- which is a presentation

3 specifically before the Stockley protest that was

4 given to, and I'm using the term generically,

5 senior staff, including yourself --

6 A Correct.

7 Q -- about what the City's

8 understanding was in terms of the applicable

9 statutory and legal provisions dealing with protest

10 law.

11 A Right.

12 Q And what you're just testified is

13 that subsequent to the Stockley protest, there have

14 been several meetings where Mr. Jemerson presented

15 information about, I would call them lessons

16 lenders?

17 A Right. And I'll be honest, I believe

18 that I am mixing incidents. We had a change of

19 command after Stockley and I can't recall what we

20 did specifically. I know that we had similar

21 review -- we had a review session after the

22 workhouse. We had training and sessions prior to

23 Stockley where we covered material like this. So

24 I'd have to say that I was confused and I answered

25 in error.

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1 Q And I appreciate your testimony.

2 Sitting here today, can you testify as the

3 corporate representative with certainty that there

4 have been no meetings and presentations at any time

5 addressing or evaluating after action review, After

6 Action Critique, whatever the term is, in terms of

7 what I will generally call lessons learned from the

8 Stockley protest made to senior staff or anybody

9 else?

10 MR. DIERKER: I assume you're

11 excluding litigation.

12 MR. PRAISS: Yes.

13 A Again, I cannot.

14 Q (BY MR. PRAISS) You don't know one

15 way or the other?

16 A No. I can't recall one way or the

17 other.

18 Q Okay. Are you familiar with the term

19 "After Action Critique"?

20 A I am.

21 Q Is After Action Critique the same as

22 an after action review?

23 A It's interchangeable.

24 (Plaintiffs' 30(b)(6) Exhibit 11

25 marked for identification by the court reporter.)

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1 Q (BY MR. PRAISS) Mr. Larson, I hand

2 you what's been marked for identification purposes

3 as Exhibit 11.

4 Do you see that?

5 A I do.

6 Q And is that your name on the second

7 page of this?

8 A S.

9 Q So you're definitely familiar with

10 this exhibit?

11 A I am.

12 Q And this is titled Operational

13 Planning Major Event - After Action Critique;

14 correct?

15 A Correct.

16 Q And you prepared this sometime after

17 the Stockley protest; correct?

18 A Correct.

19 Q Okay. And it's -- in your own words,

20 what's an After Action Critique?

21 A The After Action Critique is a simple

22 review of the incident that occurred. In this

23 particular format, it asks a series of questions

24 about the role that an individual played and what

25 things that worked well and things that did not

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1 work well.

2 Q Okay. Is there any -- strike that.

3 If you read, and I'll put it in the

4 record, that in the block at the top it says, "In

5 an effort to improve the quality and effectiveness

6 of the performance of the St. Louis Metropolitan

7 Police Department and the handling of Special/Major

8 Events as well as maintaining," all capitalized,

9 "C-A-L-E-A compliance, all detail commanders and

10 supervisors are required to complete an After

11 Action Critique after major events."

12 Did I read that correctly?

13 A You did.

14 Q Is this the only form of After Action

15 Critique that's provided to all detail commanders

16 and supervisors? Or is there a different form for

17 different supervisors based on their role?

18 A This would be the main form that

19 would be submitted or requested to be returned.

20 Q When you say "the main form," is

21 there a different form?

22 A No. I mean, not that I'm aware of.

23 There's not another form; although, commanders or

24 individuals could write memorandums as far as a

25 after action review. I could request from a

41 (Pages 161 to 164)

ERIC LARSON 4/8/2019

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<p>1 subordinate an after action review for a particular</p> <p>2 incident, they would put that on a memorandum, not</p> <p>3 specifically this form.</p> <p>4 <b>Q</b> Okay. To your knowledge, were any</p> <p>5 such memorandum prepared by any detail commanders</p> <p>6 or supervisors in connection with the Stockley</p> <p>7 protest?</p> <p>8 <b>A</b> To the best of my knowledge, no.</p> <p>9 <b>Q</b> To the best of your knowledge, is the</p> <p>10 After Action Critique that you submitted, which is</p> <p>11 Exhibit 11, the only After Action Critique that was</p> <p>12 submitted by detail commanders and supervisors</p> <p>13 after the Stockley protest?</p> <p>14 <b>A</b> As far as I know, it is.</p> <p>15 <b>Q</b> Okay. When it says here that "all</p> <p>16 detail commanders and supervisors are," and I</p> <p>17 emphasize the word "required to complete an After</p> <p>18 Action Critique," did the other detail commanders</p> <p>19 and supervisors fail to meet that requirement in</p> <p>20 this case? Kind of an obvious question.</p> <p>21 <b>A</b> Apparently, they did.</p> <p>22 <b>Q</b> Okay. Have they been reprimanded in</p> <p>23 any way, to your knowledge, for not complying with</p> <p>24 the Major Event - After Action Critique</p> <p>25 requirements by the City?</p>	<p>1 commented was the "Food provided ranged from</p> <p>2 adequate to exceptional"; that was your feedback?</p> <p>3 <b>A</b> Yes.</p> <p>4 <b>Q</b> Okay. And then it talks about "What</p> <p>5 things worked well?"</p> <p>6 Do you see that?</p> <p>7 <b>A</b> Yes.</p> <p>8 <b>Q</b> And then there's a section of "What</p> <p>9 can be done to make the detail better next year?"</p> <p>10 Right?</p> <p>11 <b>A</b> Yes.</p> <p>12 <b>Q</b> And not a single commander or</p> <p>13 supervisor filled out the information about what</p> <p>14 can be done to make the detail better next time.</p> <p>15 After the Stockley incident; correct?</p> <p>16 <b>A</b> Correct, this is the only one that</p> <p>17 I'm aware of.</p> <p>18 <b>Q</b> So now I'm going back to my question,</p> <p>19 does this in any way refresh your recollection of</p> <p>20 whether, after the Stockley protest, there has been</p> <p>21 any presentations where documents were provided to</p> <p>22 police officers with what I'm going to generally</p> <p>23 term as lessons learned and how to do things better</p> <p>24 to ensure that the quality and effectiveness of the</p> <p>25 performance of the St. Louis Metropolitan Police</p>
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<p>1 <b>A</b> To my knowledge, no.</p> <p>2 <b>Q</b> Okay. Is it of a concern, from the</p> <p>3 City's perspective, that pretty significant</p> <p>4 incident occurred in the City of St. Louis, there</p> <p>5 is a document that contemplates that all detail</p> <p>6 commanders and supervisors should fill out this</p> <p>7 form in order to, quote, "improve the quality and</p> <p>8 effectiveness of the performance of the police</p> <p>9 department," that you're the only one who took the</p> <p>10 time to fill one out? Is that a serious concern?</p> <p>11 <b>A</b> It's a concern that more were not</p> <p>12 submitted.</p> <p>13 <b>Q</b> The form that you filled addresses</p> <p>14 things such as the quality of the food; correct?</p> <p>15 <b>A</b> Correct.</p> <p>16 <b>Q</b> Talks about whether the roll call</p> <p>17 location was adequate; correct?</p> <p>18 <b>A</b> Correct.</p> <p>19 <b>Q</b> About whether the roll call</p> <p>20 information was adequate; correct?</p> <p>21 <b>A</b> Correct.</p> <p>22 <b>Q</b> Whether the number of personnel</p> <p>23 assigned was adequate; correct?</p> <p>24 <b>A</b> Correct.</p> <p>25 <b>Q</b> By the way, on the food, you</p>	<p>1 Department is improved in the future?</p> <p>2 <b>A</b> I can't recall any.</p> <p>3 <b>Q</b> Am I correct that this particular</p> <p>4 document, Exhibit 11, was created at Saint Louis</p> <p>5 University?</p> <p>6 <b>A</b> I don't believe so.</p> <p>7 <b>Q</b> This was not created by a social work</p> <p>8 professor?</p> <p>9 <b>A</b> Oh, the actual, where the form was</p> <p>10 created or how the form was created?</p> <p>11 <b>Q</b> The form, yeah.</p> <p>12 <b>A</b> Oh, I don't -- I don't know the</p> <p>13 history of the form.</p> <p>14 <b>Q</b> Okay. Yeah, I was referring to the</p> <p>15 form of it.</p> <p>16 <b>A</b> The only thing I can tell you, it is</p> <p>17 Version 1 and it first became department policy in</p> <p>18 October of 2007, but I have no knowledge of how the</p> <p>19 mechanics of it took place.</p> <p>20 <b>Q</b> But you understood, at the time you</p> <p>21 filled it, that this form and the requirements</p> <p>22 there applied to the events that just had</p> <p>23 transpired in the Stockley protest?</p> <p>24 <b>A</b> Yes.</p> <p>25 <b>Q</b> Okay. Let's focus on topics 4</p>

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<p style="text-align: right;">Page 169</p> <p>1 through 6, if you want to look at those.</p> <p>2 Have you had a chance to review</p> <p>3 topics 4, 5, and 6?</p> <p>4 A I have.</p> <p>5 Q Do you see the common denominator to</p> <p>6 all of them deals with unlawful assembly?</p> <p>7 A Yes.</p> <p>8 Q And different areas of inquiry about</p> <p>9 unlawful assembly; is that a fair statement?</p> <p>10 A Yes.</p> <p>11 Q If you could go back and spend some</p> <p>12 time looking at Exhibit 6 (sic) that we dealt with</p> <p>13 before?</p> <p>14 MR. PRAISS: And I apologize, Judge,</p> <p>15 that's the one we don't have the even pages.</p> <p>16 MR. DIERKER: That's fine.</p> <p>17 Q (BY MR. PRAISS) If you go to page 5</p> <p>18 of this document, presentation?</p> <p>19 A Mm-hmm.</p> <p>20 Q Do you see it's titled Section</p> <p>21 574.040?</p> <p>22 A Yes.</p> <p>23 Q And your understanding, that's a</p> <p>24 provision under Missouri law; correct?</p> <p>25 A Correct.</p>	<p style="text-align: right;">Page 171</p> <p>1 must "agree with such persons to violate any</p> <p>2 criminal laws."</p> <p>3 Do you see that?</p> <p>4 A Yes.</p> <p>5 Q The third one, the person must reach</p> <p>6 that agreement to violate the criminal laws "with</p> <p>7 force or violence"; correct?</p> <p>8 A Yes.</p> <p>9 Q If you now flip to page 6 of the</p> <p>10 PowerPoint presentation?</p> <p>11 A Yes.</p> <p>12 Q There is a description of, that lays</p> <p>13 out the City's understanding of the provision</p> <p>14 574.040 and when someone potential violates it;</p> <p>15 correct?</p> <p>16 A Correct.</p> <p>17 Q And it indicates, and please correct</p> <p>18 me if I am misstating it, that, "Every person who</p> <p>19 is present and cognizant of the unlawful acts being</p> <p>20 committed bit other members of the assembly can be</p> <p>21 found guilty of being unlawfully assembled"; is</p> <p>22 that correct?</p> <p>23 A That is correct.</p> <p>24 Q Is it your understanding that that</p> <p>25 statement reflects the policy of the City?</p>
<p style="text-align: right;">Page 170</p> <p>1 Q Okay.</p> <p>2 (Plaintiffs' 30(b)(6) Exhibit 12</p> <p>3 marked for identification by the court reporter.)</p> <p>4 Q (BY MR. PRAISS) Just so you know, in</p> <p>5 Exhibit 12, I did a simple Google search and I</p> <p>6 printed out copies of Section 574.040 of the</p> <p>7 Missouri Revised Statutes as well as 574.050 and I</p> <p>8 believe there should also be one more, 574.060. So</p> <p>9 you have, to the extent you want to refer to the</p> <p>10 actual language, because sometimes in the exhibit</p> <p>11 that we're looking at, Exhibit 6, I believe it has</p> <p>12 elements but might not have the full language, so</p> <p>13 feel free to refer to both exhibits.</p> <p>14 A Thank you.</p> <p>15 Q Back to page 5 of the exhibit dealing</p> <p>16 with Section 574.040, you see it identifies the</p> <p>17 different elements necessary for a person to</p> <p>18 violate that statutory provision?</p> <p>19 A Yes.</p> <p>20 Q And it says, "A person commits the</p> <p>21 offense of unlawful assembly if," and 1, "he or she</p> <p>22 must knowingly assemble with six or more other</p> <p>23 persons"; correct?</p> <p>24 A Yes.</p> <p>25 Q Second requirement, that individual</p>	<p style="text-align: right;">Page 172</p> <p>1 A Yes, that's the interpretation of the</p> <p>2 City on this ordinance.</p> <p>3 Q Sitting here today as a corporate</p> <p>4 representative, do you believe that's an accurate</p> <p>5 statement?</p> <p>6 A I believe it is.</p> <p>7 Q You're familiar with the word</p> <p>8 "cognizant"; correct?</p> <p>9 A Its common definition, yes.</p> <p>10 Q Okay. "Cognizant" means to be aware</p> <p>11 of something; correct?</p> <p>12 A Yes.</p> <p>13 Q Okay. Do you agree that a person can</p> <p>14 be cognizant of unlawful acts being performed by</p> <p>15 other individuals without agreeing with other</p> <p>16 individuals to engage in the same unlawful acts?</p> <p>17 A Potentially.</p> <p>18 Q To be cognizant of something is very</p> <p>19 different than to agree to do something; correct?</p> <p>20 A Correct.</p> <p>21 Q Okay. Am I correct that the</p> <p>22 statement on page 6 of the presentation, that does</p> <p>23 not include any requirements that in order to be</p> <p>24 found guilty of the crime of unlawful assembly, a</p> <p>25 person must agree with other individuals to</p>

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<p style="text-align: right;">Page 173</p> <p>1 actually violate the criminal laws with force or</p> <p>2 violence?</p> <p>3 A Page 6 does not state that.</p> <p>4 Q So to the extent page 6 does not</p> <p>5 include those requirements of an agreement rather</p> <p>6 than being cognizant and not only an agreement, but</p> <p>7 an agreement to violate the criminal laws with</p> <p>8 force or violence, it is incorrect?</p> <p>9 MR. DIERKER: I'll object to the form</p> <p>10 of the question, calling for a legal conclusion.</p> <p>11 A Yeah.</p> <p>12 Q (BY MR. PRAISS) I am not asking for</p> <p>13 a legal opinion. I am asking from your</p> <p>14 understanding as a corporate representative with</p> <p>15 respect to topics 4, 5, and 6 dealing with unlawful</p> <p>16 assembly, when it can be declared, on page 6 of the</p> <p>17 PowerPoint presentation that was provided to senior</p> <p>18 staff --</p> <p>19 A Mm-hmm.</p> <p>20 Q -- only one or two weeks before the</p> <p>21 Stockley -- weeks before the Stockley protest, it</p> <p>22 suggests, am I correct, that an unlawful assembly</p> <p>23 can be declared even in circumstances where people</p> <p>24 are simply cognizant of certain unlawful acts</p> <p>25 happening but not agreeing to do so?</p>	<p style="text-align: right;">Page 175</p> <p>1 unlawful acts which have risen to the level to</p> <p>2 declare an unlawful assembly, the persons within</p> <p>3 that group, whether they've committed an -- a</p> <p>4 person in that group could be found guilty of</p> <p>5 unlawful -- being unlawfully assembled.</p> <p>6 Q And I apologize for my hypothetical</p> <p>7 and I appreciate your answer but I'm going to try</p> <p>8 and distill it, if I may, Mr. Larson.</p> <p>9 Is it the City's understanding that a</p> <p>10 person can be charged with unlawful assembly under</p> <p>11 circumstance where that person does not reach an</p> <p>12 agreement with other individuals to violate the</p> <p>13 criminal laws with force or violence? That's my</p> <p>14 question.</p> <p>15 A Well, they have to reach an agreement</p> <p>16 with -- because that's an element of the crime.</p> <p>17 Q In the slide that we're looking at on</p> <p>18 page 6, is there any requirement there that</p> <p>19 specifies -- strike that.</p> <p>20 On page 6, sir, the word "agreement"</p> <p>21 does not appear?</p> <p>22 A It does not.</p> <p>23 Q And it specifically says that every</p> <p>24 person who is simply present and cognizant of the</p> <p>25 fact that unlawful acts are being committed by</p>
<p style="text-align: right;">Page 174</p> <p>1 A It doesn't say --</p> <p>2 MR. DIERKER: Same objection. Go</p> <p>3 ahead.</p> <p>4 A I was going to say it doesn't say</p> <p>5 that an unlawful assembly can be declared because</p> <p>6 people in the crowd are cognizant of the acts. I</p> <p>7 mean, the point of this slide appears to be the</p> <p>8 fact that those people who are in the crowd who are</p> <p>9 aware that the crowd is creating unlawful acts can</p> <p>10 be found guilty of unlawful assembly.</p> <p>11 Q (BY MR. PRAISS) So again, that's</p> <p>12 what I'm trying to understand. Is it the City's</p> <p>13 position that somebody who is simply found, for</p> <p>14 example, inside the kettle, who is cognizant of the</p> <p>15 protest around him but hasn't reached any agreement</p> <p>16 with anybody to do anything unlawful and to break</p> <p>17 the criminal -- the laws, by force of violence,</p> <p>18 that that individual, just by standing and being</p> <p>19 cognizant that those other people around him, can</p> <p>20 be charged with unlawful assembly?</p> <p>21 A It's very fact dependent in the whole</p> <p>22 incident -- I mean, you've laid out a large</p> <p>23 scenario of a hypothetical that I'm having a little</p> <p>24 trouble keeping up with but, essentially, if there</p> <p>25 are people within that group that are creating</p>	<p style="text-align: right;">Page 176</p> <p>1 others can be found guilty of unlawful assembly;</p> <p>2 correct?</p> <p>3 A That is the statement.</p> <p>4 Q And that's the policy of the City of</p> <p>5 St. Louis?</p> <p>6 A It was the information that was</p> <p>7 provided.</p> <p>8 Q It was provided, not just to anybody</p> <p>9 but the top people who were then expected to share</p> <p>10 that information with the people below them;</p> <p>11 correct?</p> <p>12 A Yes.</p> <p>13 Q Okay. If you look at page 8, am I</p> <p>14 correct that deals with City Ordinance 15.52.010?</p> <p>15 A It does.</p> <p>16 Q And it lays out the key elements</p> <p>17 necessary for a person to violate this ordinance?</p> <p>18 A Yes.</p> <p>19 Q And first, you have to have at least</p> <p>20 two persons; correct?</p> <p>21 A Yes.</p> <p>22 Q They have to assemble together;</p> <p>23 correct?</p> <p>24 A Yes.</p> <p>25 Q They have to act in concert?</p>

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1 A Yes.

2 Q And they have to do so to do any

3 unlawful act with force or violence; correct?

4 A Yes.

5 Q Am I correct that both Section

6 574.040 and Ordinance 15.52.010 include, among

7 other things, the requirement to do an unlawful act

8 with force or violence?

9 A Yes.

10 Q Okay. When it uses the phrase to

11 "act in concert" in Ordinance 15.52.010, what is

12 your understanding that means?

13 MR. DIERKER: I'll object to the form

14 of the question, asking for a conclusion of law.

15 Q (BY MR. PRAISS) I'm not -- let me

16 rephrase the question.

17 What is the City's understanding with

18 respect to the enforcement of Section Ordinance

19 15.52.010, what "act in concert" requires?

20 MR. DIERKER: Same objection.

21 A The common definition of to "act in

22 concert" is to act together.

23 Q (BY MR. PRAISS) I looked it up, the

24 Merriam-Webster dictionary provides the following

25 definition for the word "concert: Agreement in

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1 design or plan; union formed by mutual

2 communication of opinion and views."

3 As the City's representative, do you

4 agree with that definition?

5 A I would agree.

6 Q Okay. The last part of Ordinance

7 15.52.010 has language about, it starts, "and every

8 person present at such meeting or assembly who

9 shall not endeavor to prevent the commission or

10 perpetration of such unlawful act shall be guilty

11 of a misdemeanor."

12 Do you see that?

13 A I do.

14 Q When it uses the phrase there "every

15 person at such meeting or assembly," the language

16 "meeting or assembly," is it the City's

17 understanding that that refers to the meeting or

18 assembly that's discussed above in the first

19 section of the provision?

20 MR. DIERKER: Once again I'll object

21 to the form of the question as calling for legal

22 conclusions. I don't feel that legal opinions are

23 within the scope of the corporate representative

24 deposition but --

25 Q (BY MR. PRAISS) I'll rephrase my

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1 question because I apologize if I -- and I should

2 be doing it, I am not, again, Mr. Larson, asking

3 for a legal opinion.

4 What I'm trying to understand is the

5 City, when it sends out police officers to enforce

6 Ordinance 15.52.010, I'm trying to learn, no

7 different than any other citizen, of under what

8 circumstance, if any, may I be, based on the City's

9 understanding, subject to a violation of this

10 ordinance?

11 So the City must have an

12 understanding how it enforces it and how it trains

13 police officers about it and that's all I'm looking

14 for. Not a legal conclusion but an understanding

15 of the City with respect to the enforcement of this

16 provision. Does that make sense? And I think I'm

17 entitled to that and I'm happy to take that to the

18 judge any day, Judge.

19 MR. DIERKER: Well, we'll do that

20 when and if needed but I'll adhere to my objection.

21 Q (BY MR. PRAISS) But I want it on the

22 record to be clear what I'm looking for. I am not

23 looking for, even though I now found out you're an

24 attorney, I don't want your legal opinion. I want

25 the City's understanding about this. Fair enough?

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1 When it says in the last clause that

2 "every person present at such meeting or assembly,"

3 is it referring to the two people who assemble

4 together to act in concert? Is that what it's

5 referring to? Is that the City's understanding?

6 A Yes.

7 Q Okay. So to the extent two people

8 get together, as referenced in the first section of

9 Ordinance 15.52.010, and one of them --

10 A Well, I would have to -- may I

11 interject? I'm sorry.

12 Q No problem.

13 A The -- when -- go ahead with your

14 question.

15 Q My question is going to be much

16 easier. I came up with a different approach.

17 Let's say two people assemble together at a street

18 corner.

19 A Yes.

20 Q And they decide, in concert, as

21 required here, to commit an unlawful act with force

22 of violence against the property of the City or

23 somebody. Okay?

24 A All right.

25 Q Let's say I am standing next to them

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<p style="text-align: right;">Page 181</p> <p>1 but I don't even know who the heck they are, but  2 let's say I'm overhearing this thing. Is it the  3 City's understanding that I can be charged with  4 unlawful assembly because I failed to endeavor to  5 prevent the commission or perpetration of such  6 unlawful act?  7 MR. DIERKER: Same objection.  8 A And I would have to say yes, because,  9 as we were discussing the first scenario, you  10 indicated the two people together, yes, they are  11 the people who are violating the ordinance. The  12 rest of the ordinance indicates any -- therefore,  13 "every person present at such meeting or assembly  14 who shall not endeavor to prevent the commission or  15 perpetration of such unlawful act shall be guilty  16 of a misdemeanor."  17 So by failing to stop them, if you've  18 overheard them, you're involved, failing to notify  19 officers, yes, in theory, you would be subject to.  20 Q (BY MR. PRAISS) Now change my little  21 hypothetical now, say I don't overhear anything,  22 they're just standing there, they've reached an  23 agreement. I don't hear a thing, I don't have a  24 clue what they're thinking to do. I'm just  25 standing next to them.</p>	<p style="text-align: right;">Page 183</p> <p>1 talking about all kinds of events and prosperity,  2 and these things don't happen in a vacuum. There  3 is all kinds of warnings that would be given,  4 attempts to get crowd people to disperse, so,  5 therefore, being taken into custody at that point  6 could occur to someone who is not necessarily  7 engaged in the unlawful or riotous behavior,  8 violent behavior.  9 Q I'm really focusing on the kettle,  10 and I think you've acknowledged to me that in  11 undertaking the approach of the kettle coming in  12 from four corners, it was reasonable to anticipate  13 that some people would get trapped who were not in  14 fact protesters and acting in any way in connection  15 with other protesters; you recall that?  16 A Yes.  17 Q Knowing that, my question to you is,  18 it is still the City's position that, when you have  19 trapped a very significant, large group of people,  20 by the mere fact that, and not a complicated  21 hypothetical, only two people in the whole group  22 reached some agreement to do something with  23 violence, is my hypothetical, and everybody else is  24 clueless, they're just kinda like, how the heck did  25 I get here, that the police officers at that point,</p>
<p style="text-align: right;">Page 182</p> <p>1 Can I be charged with unlawful  2 assembly even though I have no knowledge of what  3 they're planning to do?  4 MR. DIERKER: Same objection.  5 Q (BY MR. PRAISS) Again, I'm looking  6 for the City's understanding of how it enforces  7 this provision.  8 A Yes.  9 Q So your testimony is, as the  10 corporate representative of the City of St. Louis,  11 that in the connection with let's say the kettle,  12 if, hypothetically, there was two people there who  13 reached some agreement to commit an unlawful act by  14 violence, even though you've already testified  15 there's no evidence to suggest anybody acted with  16 violence, everybody else that was entrapped inside  17 the kettle, the City's position could be charged  18 with unlawful assembly even though they didn't even  19 know who those two people were in my hypothetical  20 and they never talked to them and had no idea what  21 their intent was, but simply because they were in  22 the wrong place at the wrong time, they could be  23 charged with a misdemeanor of violating the law?  24 A They could be. We're talking about  25 some very fact-dependent circumstances, we're</p>	<p style="text-align: right;">Page 184</p> <p>1 that evening, could arrest everybody for unlawful  2 assembly because they are at the wrong place at the  3 wrong time; is that the City's position?  4 MR. DIERKER: Same objection.  5 A They -- yes. That's the City's  6 position.  7 Q (BY MR. PRAISS) And since those  8 people, under the City's position, are in violation  9 of the law, even though, again, my fact pattern,  10 they have no idea what's happening with the other  11 people, they're just bystanders, because the City  12 considers them to be engaged in unlawful assembly,  13 that means that under policy Section XIII of  14 Special Order 1-01, the police can deploy chemical  15 agents at them without any warnings?  16 A Potentially.  17 Q The warnings -- the warning  18 requirement doesn't apply --  19 A Doesn't apply --  20 Q -- because they're engaged in  21 unlawful activity, they're no longer peaceful?  22 A But it would require violence or  23 threat of violence and things of that nature, and  24 again, you're asking very finite questions about  25 very fluid situations.</p>

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<p style="text-align: right;">Page 185</p> <p>1 Q I'm trying to -- I'm visualizing the 2 circumstance of what I believe transpired during 3 the kettle and you have now explained to me the 4 City's position, which it is what it is, but that a 5 lot of people that night, all of them could have 6 been charged with unlawful assembly, and when I go 7 back to Special Order -- Section XIII, Special 8 Order 1-01, it specifies that, "Per the Settlement 9 Agreement, chemical agents will not be used to 10 disperse groups engaged in non-criminal activity 11 without satisfying the following conditions" -- 12 A Correct. 13 Q -- one of them being a warning. 14 A Correct. 15 Q Is it the City's position that all of 16 those people were engaged in criminal activity 17 because they were unlawfully assembled, even those 18 there were no specific articulable facts to 19 establish that all of those people had knowledge 20 that somebody acted or was going to act in concert 21 to violate the laws? 22 MR. DIERKER: Object to the form of 23 the question, argumentative, calling for a 24 conclusion of law. 25 Q (BY MR. PRAISS) You can answer my</p>	<p style="text-align: right;">Page 187</p> <p>1 Q Are you aware in prior -- during the 2 Stockley protests of a single time when an officer 3 told someone that, I'm about to deploy chemical 4 agents with handheld pepper spray or a fogger and 5 gave them a warning before doing so? 6 A I know warnings were given. 7 Q Warnings about the use of chemical 8 agents. 9 A But I cannot say that an individual 10 officer did or did not give a warning to an 11 individual they may have used chemical agents on. 12 Q But under Special Order -- Section 13 XIII of Special Order 1-01 they are not required to 14 give warnings because of the City's interpretation 15 of what constitutes an unlawful assembly; correct? 16 A Yes. 17 Q Okay. If you go to page 9 of the 18 presentation. That deals with the offense of riot 19 and that deals with Section 574.050, which is -- 20 A Yes. 21 Q You have a copy of the full statutory 22 provision in Exhibit 12, if you want to refer to 23 it. 24 A Yes. 25 Q Do you see on page 9 it lays out the</p>
<p style="text-align: right;">Page 186</p> <p>1 question. 2 A Yes, I mean, the unlawful activity 3 has occurred, in the situation where given, 4 announcements are made, opportunities were given to 5 egress. Failure to comply with that opportunity, 6 they were -- people were arrested. 7 Q Okay. A lot of those people were 8 arrested for unlawful assembly; correct? 9 A I believe so. 10 Q So that's why I'm focusing on that 11 provision. And again, that evening, those people 12 that were arrested for unlawful assembly and in the 13 process were subjected to chemical agents, it is 14 the City's position that the officers were entitled 15 to use chemical agents against them because they 16 were engaged in unlawful assembly; therefore, they 17 were acting in a criminal conduct, no warnings had 18 to be given. Correct? 19 A No warnings would have to be given, 20 but warnings were given. 21 Q Warnings that chemical agents would 22 be used. I'm focusing on that. Am I correct no 23 warnings were given to people that chemical agents 24 were going to be used against them, necessarily? 25 A I can't answer that.</p>	<p style="text-align: right;">Page 188</p> <p>1 key elements for the offense of rioting? 2 A Yes. 3 Q And you got -- in that situation a 4 person commits the offense of rioting if "he or she 5 knowingly assembles with six or more persons"; 6 correct? 7 A Yes. 8 Q "Agrees with such persons to violate 9 any criminal laws"; correct? 10 A Yes. 11 Q "With force or violence"; correct? 12 A Yes. 13 Q And, "thereafter, while still so 14 assembled, does violate any criminal laws with 15 force or violence." 16 Those are all the elements? 17 A Yes. 18 Q Okay. Again, that statutory 19 provision, 574.050, clearly requires force or 20 violence; correct? 21 A Yes. 22 Q And do you know if anybody was 23 actually charged with violation of this statutory 24 provision in connection with the Stockley protests? 25 A I do not.</p>

47 (Pages 185 to 188)

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1           **Q**   Okay. Go to page 10. This one deals  
2   with Section 574.060.  
3           Do you see that?  
4           A   Yes.  
5           **Q**   And again, feel free to look at  
6   Exhibit 12, if you want to look at the entire  
7   statutory provision, Mr. Larson.  
8           A   Okay.  
9           **Q**   On page 10 it lays out the key  
10  elements for committing the crime of refusal to  
11  disperse.  
12          Do you see that?  
13          A   Yes.  
14          **Q**   The first element is that the person  
15  has to be "present at the scene of an unlawful  
16  assembly or riot"; correct?  
17          A   Yes.  
18          **Q**   And then there is three other  
19  elements that follow, "person has to knowingly fail  
20  or refuse to obey; a lawful command of a police  
21  officer"; and "to depart the scene of such unlawful  
22  assembly or riot"; correct?  
23          A   Correct.  
24          **Q**   Do you agree, sir -- strike that.  
25               Am I correct that it's the City's

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1   position that, in order to commit the crime of  
2   refusal to disperse, there must be an underlying  
3   unlawful assembly or riot to trigger the failure to  
4   disperse?  
5           MR. DIERKER: Object to the form of  
6   the question, calls for a legal conclusion.  
7           A   Yes, that would be part of the --  
8   it's an element of the crime, so it's required to  
9   be there prior to charging an individual with  
10  refusal to disperse.  
11          **Q**   (BY MR. PRAISS) And am I correct  
12  that, we've established on several occasions, that  
13  in order to have an unlawful assembly or riot --  
14  strike that.  
15          Focusing again on the kettle, I  
16  apologize for belaboring this point but again,  
17  you're not aware of any situation where somebody,  
18  around 11:30 at night, 11:25 that evening, was  
19  engaging in violent conduct that presented imminent  
20  threat to police officers or property at that  
21  point; correct?  
22          A   At that particular moment in time, I  
23  don't know what was occurring. At that particular  
24  moment in time in this grand scenario, I don't know  
25  if someone was engaging in violence or not.

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1           **Q**   Are you aware of any facts that  
2   suggest that there was somebody arrested for acts  
3   of violence at that time?  
4           A   There were not people arrested at  
5   that -- I'm confused because you're asking me  
6   almost to testify to a specific incident.  
7           **Q**   Let me help you out. You're familiar  
8   with, and I don't know his title, Mr. Sachs?  
9           A   Yes.  
10          **Q**   Who testified at the preliminary  
11  injunction?  
12          A   I know Lieutenant Sachs. He was the  
13  commander of SWAT at the time of the kettling.  
14          **Q**   And I'll represent to you I've read  
15  his testimony very carefully. If he testified that  
16  after about 8:30 that evening, where there was  
17  property damage, there was no evidence any of  
18  violent activity in the City in the later part of  
19  that evening, do you have any facts to dispute  
20  that?  
21          MR. DIERKER: Well, I'm going to  
22  object to that question because it seems to me that  
23  that's totally outside the scope of the corporate  
24  designee deposition. You're asking for knowledge  
25  of the entire event, specifically specific conduct

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1   of specific people. I will allow him to answer.  
2          MR. PRAISS: For what it's worth,  
3   you, of all people, should know speaking objections  
4   are not exactly appropriate. And I think that was  
5   a novel of an objection. You might want to  
6   consider shortening it a bit.  
7          MR. DIERKER: I'll note your  
8   objection to my objection.  
9          MR. PRAISS: Okay. And the reason  
10  for my question is not trying to go outside the  
11  scope and to lay a foundation for the question that  
12  he was having difficulty answering, so this is a  
13  predicate to my question and that's why I need it.  
14          **Q**   (BY MR. PRAISS) So my question back  
15  to you is, I'm representing to you what Lieutenant  
16  Sachs testified, that after 8:30, there was no  
17  evidence of violent activity in the City and  
18  definitely none around 11:30 when the kettle took  
19  place.  
20          My question to you is, I just need to  
21  understand, are you aware of any of facts to  
22  challenge that testimony by Lieutenant Sachs?  
23          A   I am not aware of any facts that  
24  challenge Lieutenant Sachs's testimony.  
25          **Q**   Okay. And my question to you then



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1 is, in order to declare -- in order for someone to  
2 commit the crime of refusal to disperse, we  
3 established that a predicate for that is either  
4 being present at an unlawful assembly or a riot;  
5 correct?  
6 A Correct.  
7 Q And in order to be, have to be at the  
8 scene of an unlawful assembly or a riot, there has  
9 to be acts of violence occurring; correct?  
10 A Correct, by the statutory definition.  
11 Q And yet --  
12 A With force or violence.  
13 Q And yet assuming Lieutenant Sachs'  
14 testimony is accurate and there were no acts of  
15 violence, force or violence occurring at 11:30 at  
16 night, what is the basis for charging people with a  
17 crime of refusal to disperse if there is no basis  
18 for establishing an unlawful assembly or a riot, is  
19 what I'm trying to understand.  
20 MR. DIERKER: Object to the form of  
21 the question, argumentative.  
22 A I can't state -- I mean, based on the  
23 hypothetical scenario, assuming that there is no  
24 other individual who can say that force or violence  
25 was occurring at that particular time, the

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1 declaration of the unlawful assembly was up to the  
2 incident commander who should have followed the  
3 statutory guidelines to declare.  
4 Q (BY MR. PRAISS) Okay. If you go to  
5 page 11, please? It says, "The decision to declare  
6 a crowd unlawful must be based on reasonable and  
7 articulable facts."  
8 What is the City's understanding what  
9 it means when it says -- uses the phrase  
10 "reasonable and articulable facts"?  
11 A A common sense language definition of  
12 what is the standard of reasonableness of an  
13 ordinary person, articulable would be demonstrate  
14 specificity, specific facts.  
15 Q And that's what I was looking for.  
16 You agree with me that it requires some level of  
17 specificity before you can go out and just declare  
18 an unlawful assembly?  
19 A Yes.  
20 Q Okay. Go to page 15. This deals  
21 with Interference With An Officer - Best Practice.  
22 Do you see that?  
23 A I do.  
24 Q And in the second bullet says, "Warn  
25 prior to arrest on this charge by giving an

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1 effective order. Inform the protester how the  
2 protester is interfering with official duty and  
3 instruct the protester how to comply."  
4 Do you see that?  
5 A Mm-hmm.  
6 Q Is that a yes?  
7 A Yes. Sorry.  
8 Q No problem. Am I correct that in  
9 this situation, the City's policy is that a warning  
10 is appropriate when an individual is interfering  
11 with an officer undertaking some police function;  
12 correct?  
13 A This point relates to the best  
14 practices related to interfering with an officer  
15 and the explanation on when, what is interference  
16 to warn prior to arrest on the charge by giving an  
17 effective order. So, and I need to be involved in  
18 some sort of official act.  
19 Q And it specifically says that in that  
20 situation, the best practice is to warn prior to  
21 arresting someone and by giving them an effective  
22 order, and it delineates an example what an  
23 effective order would be; correct?  
24 A Correct.  
25 Q And it would be, among other things,

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1 to inform the protester how he's interfering with  
2 official duty and instructing him how to comply;  
3 correct?  
4 A Yes.  
5 Q Okay. Could you help me understand  
6 why the City considers it a best practice to  
7 provide a warning by giving an effective order in  
8 the context of an individual interfering with an  
9 officer but doesn't believe that any warning is  
10 required before spraying someone with pepper mace  
11 using a handheld device under Section IV of Special  
12 Order 1-01?  
13 MR. DIERKER: Object to the form of  
14 the question, argumentative.  
15 A I cannot.  
16 Q (BY MR. PRAISS) Can you think of any  
17 reason why it's a best practice in one case to give  
18 a warning which is giving an effective order of  
19 what a person needs to do in one -- in this context  
20 and why it's different in the context of an  
21 interaction with someone who is, again, interfering  
22 with a police officer trying to effectuate an  
23 arrest, but in that context there is no best  
24 practice; in fact, you have free discretion to  
25 spray someone to get them to comply?

49 (Pages 193 to 196)

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1 MR. DIERKER: Same objection.  
2 **Q (BY MR. PRAISS) That's what I'm**  
3 **trying to understand.**  
4 A I don't have an answer for this.  
5 **Q Okay. Topic number 4, Mr. Larson,**  
6 **specifically, I'll read it into the record, says,**  
7 **"The City of St. Louis's policies and/or practices**  
8 **concerning who has authority to declare an unlawful**  
9 **assembly."**  
10 **Do you see that?**  
11 A I do.  
12 **Q As of September 2017, did the City**  
13 **have any written policies or practices concerning**  
14 **who has authority to declare an unlawful assembly?**  
15 A No. Any officer can declare an  
16 unlawful assembly based on probable cause. We  
17 don't train for -- officers are trained relative to  
18 the application of specific ordinances and having  
19 probable cause to enforce those ordinances.  
20 However, in standard practice, especially related  
21 to First Amendment issues, the policy is only a  
22 command rank, a supervisor, sergeant, lieutenant on  
23 up, incident commander, would be responsible for  
24 declaring an unlawful assembly.  
25 **Q You gave me a long answer and I'm**

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1 getting tired and I had a tough time following you,  
2 Mr. Larson, so I apologize but I'll break it into  
3 pieces.  
4 Am I correct that any individual  
5 police officers at any point can declare, based on  
6 his or her own opinion, that there's an unlawful  
7 assembly?  
8 A If the elements of the law are met  
9 and the officer has probable cause to believe that  
10 the elements are met, yes, they could.  
11 **Q Okay. Am I correct there is nothing**  
12 **written to provide guidance to an officer with**  
13 **respect to when to declare unlawful assembly other**  
14 **than the language of the statute?**  
15 A Correct.  
16 **Q Okay. There's pretty significant**  
17 **consequences when an officer declares an unlawful**  
18 **assembly; right?**  
19 A Agreed.  
20 **Q Among other things, based on the**  
21 **City's understanding, as you described earlier,**  
22 **everybody that's congregating there, regardless of**  
23 **what their mental state is and what their agreement**  
24 **or lack of agreement is, could be charged with a**  
25 **crime; correct?**

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1 And with that in mind, my question  
2 is, what training is provided to police officers so  
3 that they know to use their discretion correctly?  
4 That they know what it takes, the elements, that  
5 they don't abuse their discretion and create havoc?  
6 I apologize for the long question but that's what  
7 I'm trying to understand.  
8 MR. DIERKER: I apologize for having  
9 to object but I think the second half of the  
10 question is fine but the preface --  
11 MR. PRAISS: And I'll --  
12 MR. DIERKER: -- injected other  
13 matters.  
14 **Q (BY MR. PRAISS) I'll strike the**  
15 **question and do a better job.**  
16 You agree with me declaring an  
17 unlawful assembly is a pretty serious charge;  
18 right?  
19 A In matters related to the First  
20 Amendment, yes.  
21 **Q And you just explained or testified**  
22 **that any officer has the discretion to declare an**  
23 **unlawful assembly; correct?**  
24 A Yes, but common practice is only  
25 senior officers would do so.

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1 **Q But there's nothing prohibiting a**  
2 **regular officer, not a senior officer, from doing**  
3 **it under the policies and practices of the City of**  
4 **St. Louis; correct?**  
5 A Correct.  
6 **Q Okay. My question to you is, what**  
7 **specific training is provided to every police**  
8 **officer about the standards pursuant to which they**  
9 **can declare an unlawful assembly to make sure they**  
10 **get it right?**  
11 A The training is based on all of our  
12 training, which is probable cause, to ensure that  
13 the elements of the crime are present prior to  
14 effecting either an arrest or a declaration of  
15 unlawful assembly. There's no specific training  
16 focused at specifically unlawful assembly.  
17 **Q To what extent does the City actually**  
18 **test the police officers' knowledge about the**  
19 **relevant elements of the provision to declare**  
20 **unlawful assembly to ascertain to what extent they**  
21 **actually have an accurate working knowledge of the**  
22 **elements?**  
23 A I don't believe there is a test.  
24 **Q Okay. And again, I'm trying to**  
25 **understand, is there like a regular training with**

50 (Pages 197 to 200)

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1 respect to this element that happens on a monthly,  
2 biyearly, yearly basis, to make sure that officers  
3 know the elements of the crimes they are about to  
4 charge people, in those situations where the  
5 discretion to do so?

6 A To the best of my knowledge, and I'm  
7 -- I may have gotten lost, no. Not on that  
8 specific point or element on unlawful assembly.  
9 Obviously it's a topic that we're concerned about  
10 and it's something that we want to make sure we're  
11 doing correctly.

12 Q Would one way to do that would simply  
13 to give an open-ended test to police officers and  
14 ask them on a piece of paper write down the four  
15 elements for an unlawful assembly and realize that  
16 probably less than 5 percent of them could do it  
17 correctly would be my guess, no disrespect.

18 MR. DIERKER: I'll object to the  
19 statement.

20 A I'm not sure that -- that was a  
21 statement more than a question, but no, I mean,  
22 there's no -- I've already answered I think there's  
23 no specific training related to that.

24 Q (BY MR. PRAISS) Okay. Topic 5, I'll  
25 give you a second. It is a long one. I'll let you

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1 read it yourself, Mr. Larson.

2 A Okay.

3 Q In a nutshell, that one focuses on  
4 the City's policies, practices when an unlawful  
5 assembly maybe declared; correct?

6 A Yes.

7 Q And it's pursuant to any legal  
8 authority. I want to make it general; okay?

9 A Yes.

10 Q Am I correct that the exhibit that  
11 you have in front of you, I believe this is Exhibit  
12 6, the PowerPoint presentation --

13 A Yes.

14 Q -- dated August of 2017 and the  
15 testimony that you've given me in the last 45  
16 minutes captures the City's policies and practices  
17 on this issue?

18 A Yes.

19 Q Is there anything other than what's  
20 referenced in Exhibit 6 that the City believes  
21 permits declaring an unlawful assembly under any  
22 provision of law?

23 A I don't believe so.

24 MR. PRAISS: Okay. Why don't we take  
25 a short break.

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1 (Off the record.)  
2 (Plaintiffs' 30(b)(6) Exhibit 13  
3 marked for identification by the court reporter.)

4 Q (BY MR. PRAISS) Back on the record,  
5 Mr. Larson. We are going to deal with topics 7  
6 through 1, and if you look at Exhibit 2, which is  
7 the notice of this deposition, the common factor to  
8 topic 7-11, if you look at it, is dispersal orders.  
9 Do you see that?

10 A Correct.

11 Q And I'm going to cover those topics  
12 but maybe to help start the process, I've handed  
13 you what's been marked as Exhibit 13.

14 A Okay.

15 Q This was recently produced us to in  
16 the litigation. Have you ever seen Exhibit 13  
17 before today?

18 A I have not seen it in this format. I  
19 am familiar with the dispersal order and the  
20 warning of deployment of munitions.

21 Q Okay.

22 A I see it's dated September 1, 2017.

23 Q Do you know who created this  
24 document?

25 A I do not.

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1 Q What specific steps did you take to  
2 prepare to testify with respect to topics 7 through  
3 11?

4 A Specifically, I reviewed the order on  
5 dispersal in -- which is the chemical munitions  
6 order we have talked about, Special Order 1-01,  
7 Section XIII, talks about dispersal orders.

8 Q Okay. But in terms of, you know,  
9 topics 7 through 11 deal with other issues such as  
10 who have authority to issue it --

11 A Yes.

12 Q -- when should it be declared and  
13 training with respect to dispersal orders, very  
14 different, Section XIII of Special Order 1-01  
15 doesn't cover those things?

16 A No, and it's basically -- it's built  
17 off of those series of questions were related to  
18 what I consider the probable cause requirement of  
19 what meets probable cause to declare the unlawful  
20 assembly, when the dispersal order should be given  
21 relative to the deployment of chemical munitions or  
22 the opportunity to comply, things of that nature.

23 Q Okay. This Exhibit 13 is dated  
24 September 1, 2017; correct?

25 A Yes.

51 (Pages 201 to 204)

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1           **Q** Do you know if there was any similar  
2 documents dealing with the language for issuing a  
3 dispersal order prior to that date that the City  
4 used?  
5           A I don't -- let me -- I could look at  
6 the Special Order and I believe that was dated --  
7 what the date is on that. There is some language  
8 in there that is very similar to this so I know  
9 that this was a topic of discussion as we were  
10 preparing the operations order, I believe it's  
11 encapsulated in here on dispersal somewhere.  
12           **Q** What are you looking at?  
13           A Right now I'm looking at the  
14 operations plan.  
15           **Q** Gotcha. The OPs plan that you  
16 referenced before, yep.  
17           A Yes.  
18           **Q** And please take your time but let me  
19 know if you find anything specifically in the OPs  
20 plan that deal with dispersal orders that was in  
21 effect prior to September 1, 2017.  
22           MR. DIERKER: Off the record.  
23           (Off the record.)  
24           **Q** (BY MR. PRAISS) Mr. Larson, I know  
25 there's a question pending but I'm going to strike

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1 it and ask you a new one based on this exhibit.  
2 Give me a second to have the court reporter mark it  
3 as an exhibit.  
4           (Plaintiffs' 30(b)(6) Exhibit 14  
5 marked for identification by the court reporter.)  
6           **Q** (BY MR. PRAISS) Are you familiar  
7 with Exhibit 14?  
8           A I am.  
9           **Q** Could you identify it for the record?  
10           A It was the operational Civil  
11 Disobedience Response Operations Plan relative to  
12 the expected Stockley verdict.  
13           **Q** And it's dated --  
14           A September 27, 2017.  
15           **Q** So this was prepared after? Or  
16 before the Stockley protest, is what I'm confused.  
17           A It would have been issued -- the  
18 preparation went prior but probably would have been  
19 issued on the date that it was given.  
20           **Q** Okay. During -- in the last few  
21 minutes you had a chance to look through this  
22 exhibit; correct?  
23           A Correct.  
24           **Q** I think at the time the question that  
25 I asked you was dealing with any provisions about

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1 dispersal or prior to September 1, 2017, which is  
2 the date of the dispersal order language in Exhibit  
3 13.  
4           A Yes.  
5           **Q** And so with that in mind, did you  
6 find anything in the operations plan relating to  
7 the Stockley protest dealing with dispersal orders?  
8           A I did not. I did not locate it.  
9           **Q** Thank you. So sitting here today as  
10 the corporate representative, are you aware whether  
11 there was anything in writing prior to September 1,  
12 2017, that dealt with instructions for the issuance  
13 of an unlawful assembly and dispersal orders?  
14           A I am not.  
15           **Q** Okay.  
16           A And can you tell me where this came  
17 from, Exhibit 13?  
18           **Q** I will let your attorney explain that  
19 because he sent it to us. If he wants to put that  
20 on the record, that would be helpful.  
21           MR. DIERKER: We produced that to the  
22 plaintiffs within the last week.  
23           THE WITNESS: I understand. Okay.  
24           **Q** (BY MR. PRAISS) And again, you have  
25 never seen this particular Exhibit 13 before

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1 today's deposition; correct?  
2           A I wouldn't necessarily say that. It  
3 relates to dispersal language. I am not -- I am a  
4 little confused because it has just a blank heading  
5 so it's not an email. I can't say whether I would  
6 have gotten it through email or not.  
7           I am familiar with the dispersal  
8 order language. It is the standard language that  
9 we use on -- or that is supposed to be used by the  
10 incident commanders when issuing a dispersal.  
11           **Q** Gotcha. Let's focus on the language  
12 for a dispersal order. It begins with, "This is an  
13 unlawful assembly"; correct?  
14           A Yes.  
15           **Q** So the first thing that has to happen  
16 is someone has to determine, based on articulable  
17 facts, that all the elements necessary for an  
18 unlawful assembly have taken place; correct?  
19           A Yes.  
20           **Q** And it continues whereby the person  
21 giving the dispersal order orders the individuals  
22 "to disperse from this area by moving," and it has  
23 it in quotes, "to the sidewalk and walking (give a  
24 clear course of egress)."  
25           Do you see that?

52 (Pages 205 to 208)

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1 A Yes.

2 Q So am I correct that the dispersal

3 order language -- first of all, is this language

4 mandatory?

5 A This verbatim language?

6 Q Yes.

7 A No. It is not, the verbatim language

8 is not mandatory per se.

9 Q At any time since September of 2012

10 to the present, the operative time period for this

11 deposition, has the City had a requirement that

12 specific dispersal order language was mandatory to

13 be used?

14 A Yes, we are required to give a

15 dispersal order prior to the deployment of chemical

16 munitions and it should follow this form. It may

17 be paraphrased, it may not be exact word for word,

18 but the intent is to provide this language and this

19 language was most likely prepared to give hands to

20 people, who would have to make these statements, a

21 document to refer to.

22 Q I think in your answer you used

23 language like it could be paraphrased, it can be --

24 and that it doesn't have to be the exact word for

25 word, so that's what I'm trying to focus on. The

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1 person giving the dispersal order, is there a

2 specific requirement that he or she actually has

3 this language in front of her and the only thing

4 that they are modifying is potentially the -- what

5 is the clear course of egress that applies there

6 but the rest of it is going to be read verbatim?

7 That is my question.

8 Or as you can describe it, the person

9 is basically familiar with this general language

10 and kind of paraphrases, to use your words, and

11 gives a dispersal order?

12 A We have to issue a dispersal order

13 and the language that we use would be substantially

14 similar to this.

15 Q Substantially similar but does not

16 require it to be identical?

17 A Does not require it to be identical.

18 Q Okay. Am I correct that the language

19 of the dispersal order shown in Exhibit 13 does not

20 include any language that instructs individuals to

21 cease congregating together?

22 A No, there is nothing in here that --

23 in that language that says that.

24 Q Am I correct the dispersal order

25 does not include any language that instructs

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1 individuals how far they have to leave the area?

2 A No. The -- no.

3 Q Is there a reason, from the City's

4 perspective, that is now a policy, why it would not

5 want to include some parenthetical applicable to

6 the relevant situation but that tells people, in

7 order for you to comply with this dispersal order,

8 you need to leave the current area where there's an

9 unlawful assembly and go three blocks, go past the

10 park, go to the intersection?

11 A I think it's the City's position that

12 a dispersal order is common sense. I mean, to

13 disperse, you have to break apart, you have to go

14 away, you have to move. You can't merely take your

15 group and move 50 feet down the street or into

16 another area. You need to cease congregating. You

17 need to go different directions.

18 Q Since you used the language "cease

19 congregating," it highlight my question before --

20 A I believe you used the language,

21 "cease congregating."

22 Q Yes, but you used it now. My

23 question is, again, that language doesn't appear in

24 the dispersal order; correct?

25 A No.

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1 Q It doesn't tell people that you need

2 to disperse and not recongregate anywhere; correct?

3 A No, it doesn't say that.

4 Q Okay. Am I correct the dispersal

5 order language in Exhibit 13 doesn't include any

6 language and instructs individuals for how long

7 they have to leave the area; correct?

8 A No. It's the -- once the unlawful

9 assembly is declared, there is no return to the

10 incident location. So there is no reason to say

11 you have to come back in 15 minutes or put a time

12 limit on it. It's over. You have to disperse.

13 You have to leave.

14 Q Right. But, for example, there's

15 language at the end of it that says, "You have five

16 minutes to comply with this order."

17 Do you see that?

18 A Yes.

19 Q There's no language that says you

20 cannot recongregate downtown for the next three

21 hours or this evening because that's what that

22 person declaring the dispersal order is

23 contemplating would satisfy his or her

24 expectations. That language isn't in there;

25 correct?



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1 A That language is not present.

2 Q So how does a group of people that's

3 congregating, and now they're being told they're

4 engaged in unlawful assembly based on the City's

5 interpretation as you explained it to us earlier,

6 how are they supposed to know that -- let's say

7 that happens at 8:30 in the evening and then three

8 hours later that same group of people, by

9 coincidence, comes back together and starts

10 congregating again. Because people communicate by

11 social media quite a bit these days. It doesn't

12 take much. Where somebody says, hey, I see a group

13 of people hanging, protesters, in this area.

14 The original dispersal at 8:30 didn't

15 tell them you can't ever come back to the City

16 tonight. How are they supposed to know that, that

17 they're not going to be violating a dispersal

18 order?

19 MR. DIERKER: I'll object to the form

20 of the question, it assumes facts not in evidence,

21 it's argumentative.

22 Q (BY MR. PRAISS) You may answer my

23 question.

24 A I don't know what the -- a person is

25 supposed to know or not supposed to know.

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1 Q Well, how is the person possibly

2 supposed to know that he or she is not supposed to

3 come back to the City three hours later if the

4 dispersal order didn't tell them that?

5 MR. DIERKER: Same objection.

6 Q (BY MR. PRAISS) Do you see the

7 problem?

8 MR. DIERKER: Same objection.

9 Q (BY MR. PRAISS) Is there a reason,

10 sir, why the City, when it was drafting this

11 dispersal order language, didn't include language

12 specifying what the expectations are in terms of

13 the time period during which people could not

14 recongregate in a certain area?

15 MR. DIERKER: Same objection.

16 A I don't know the reason.

17 Q (BY MR. PRAISS) And since the

18 Stockley protesters were not aware of any attempts

19 to modify this language such that if we have other

20 situations, potentially, the problems we've been

21 discussing could be eliminated; is that a fair

22 statement?

23 A I'm not aware of any attempts to

24 modify this language presently.

25 Q Okay. We talked before about who had

Page 215

1 authority to declare an unlawful assembly and I

2 think your testimony was pretty much any officer,

3 based on his or her assessment and the presence of

4 articulable facts, could declare an unlawful

5 assembly and now I want to focus on who has

6 authority to issue a dispersal order.

7 And as of September 2017, did the

8 City have any policies or practices related to who

9 had authority to issue a dispersal order?

10 A The standard policy and practice,

11 much like the declaration of an unlawful assembly,

12 would be that any officer would issue the dispersal

13 order. In common practice, especially in large

14 scale events like this, it would be up to the

15 incident commander to make those declarations and

16 to ensure that those dispersal orders are given.

17 Q To your knowledge, have there ever

18 been situations where the incident commander was

19 not the person who gave the dispersal order but

20 some other officers did so using their discretion

21 in connection with any protests in the City since

22 September of 2012?

23 A Not -- I'm sorry, that's a big

24 question. Could you break that down for me?

25 Q I'm just trying to figure out, to

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1 your knowledge, as the City's representative,

2 dealing with the dispersal orders and prior

3 protests, the topic we've been dealing with, have

4 there been situations where an officer other than

5 the incident commander issued a dispersal order?

6 A That was not directed by the incident

7 commander to issue? So the incident commander did

8 not direct officer X to provide that. I am not

9 aware of any time when an officer, on their own

10 volition, during any protest event, would have

11 issued a dispersal order on their own without

12 approval from a commander responsible for that

13 incident.

14 Q Is there a reason, if I'm hearing you

15 correctly that the City has what you've

16 characterized as a standard practice, that even

17 though any officer has the right to declare an

18 unlawful assembly or issue a dispersal order, the

19 standard practice is it's only people at a higher

20 level do so.

21 Why isn't that delineated in writing

22 as a requirement to eliminate the risk that

23 officers who are not maybe as familiar with the

24 procedures do so incorrectly?

25 MR. DIERKER: Objection,

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<p>1 argumentative.</p> <p>2 A I don't have an answer.</p> <p>3 Q (BY MR. PRAISS) Okay. Have the</p> <p>4 City's policies or practices related to who has</p> <p>5 authority to issue a dispersal order changed in any</p> <p>6 way since the Stockley protests?</p> <p>7 A No.</p> <p>8 Q Topic 8, if you look at it, deals</p> <p>9 with the circumstances when a dispersal order may</p> <p>10 be issued; correct?</p> <p>11 A Yes.</p> <p>12 Q And we looked at the statutory</p> <p>13 provision, I believe that was Missouri Revised</p> <p>14 Statute 574.060, which is in Exhibit 12, if you</p> <p>15 have that?</p> <p>16 A Are we discussing 574.060?</p> <p>17 Q Yes.</p> <p>18 A Okay.</p> <p>19 Q Am I correct, looking again at topic</p> <p>20 8, that the circumstance under which a dispersal</p> <p>21 order may be declared require that there has to be</p> <p>22 people present at the scene of either unlawful</p> <p>23 assembly or at the scene of a riot; correct?</p> <p>24 A An unlawful assembly, the statutory</p> <p>25 language.</p>	<p>1 1-01, Section XIII.</p> <p>2 Q Did you -- when you talk about the</p> <p>3 training document, you were looking at Exhibit, I</p> <p>4 believe that's 6 in front of you, Mr. Larson?</p> <p>5 A Yes.</p> <p>6 Q Did you look at any actual training</p> <p>7 materials that are used to educate police officers</p> <p>8 about dispersal orders?</p> <p>9 A I did not. I did not review any</p> <p>10 PowerPoints other than the material that we talked</p> <p>11 about.</p> <p>12 Q Okay. Again, in the operations plan</p> <p>13 that was issued shortly after the Stockley</p> <p>14 protests, you weren't able to find -- there's no</p> <p>15 training materials there referenced about the</p> <p>16 issuance of a dispersal order; correct?</p> <p>17 A No.</p> <p>18 MR. PRAISS: Okay. Let me mark up</p> <p>19 another exhibit here.</p> <p>20 (Plaintiffs' 30(b)(6) Exhibit 15</p> <p>21 marked for identification by the court reporter.)</p> <p>22 Q (BY MR. PRAISS) Do you have Exhibit</p> <p>23 15 in front of you?</p> <p>24 A Yes.</p> <p>25 Q I think earlier today you referenced</p>
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<p>1 Q In fact, the language of dispersal</p> <p>2 order, back to Exhibit 13, begins with "This is an</p> <p>3 unlawful assembly"; correct?</p> <p>4 A Yes.</p> <p>5 Q So before some police officer</p> <p>6 declares a dispersal order, there has to be all of</p> <p>7 the facts necessary to establish an unlawful</p> <p>8 assembly present; correct?</p> <p>9 A Yes, sir, the elements of the crime.</p> <p>10 The unlawful assembly would need to be present</p> <p>11 before a declaration or a dispersal order should be</p> <p>12 given.</p> <p>13 Q So topics 9 and 11 specifically deal</p> <p>14 with training provided to police officers relating</p> <p>15 to the City's policies and practices under</p> <p>16 circumstances dispersal order should be declared</p> <p>17 and made and enforced.</p> <p>18 Do you see that?</p> <p>19 A Yes.</p> <p>20 Q What specific steps did you take to</p> <p>21 prepare to testify with respect to topics 9 and 11?</p> <p>22 A I reviewed the training document</p> <p>23 prepared on protests on unlawful assembly which I</p> <p>24 believe talks about dispersal orders. Again, I</p> <p>25 reviewed the Special Order on chemical munitions,</p>	<p>1 a two-page document of -- that provided an outline</p> <p>2 of training materials used by Sergeant Jemerson.</p> <p>3 Do you recall?</p> <p>4 A Yes.</p> <p>5 Q Is Exhibit 15 that document?</p> <p>6 A It is.</p> <p>7 Q Okay. And this is kind of the</p> <p>8 outline for the course that Sergeant Jemerson</p> <p>9 provides in connection with the Civil Disobedience</p> <p>10 Team?</p> <p>11 A Yes.</p> <p>12 Q And this one's dated September 2014.</p> <p>13 Do you see that?</p> <p>14 A Yes.</p> <p>15 Q And there's a long list of topics</p> <p>16 included on this two-page document; correct?</p> <p>17 A Yes.</p> <p>18 Q Okay. And the instructional goal it</p> <p>19 talks about "preparing team members for the task of</p> <p>20 staging a coordinated, safe, constitutionally sound</p> <p>21 response to this -- civil disobedience events";</p> <p>22 correct?</p> <p>23 A Yes.</p> <p>24 Q So one objective is to make sure that</p> <p>25 the Civil Disobedience Teams knows how to act in a</p>

55 (Pages 217 to 220)

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<p style="text-align: right;">Page 221</p> <p>1 constitutional, sound manner; correct?</p> <p>2 A Yes.</p> <p>3 Q With respect to the use -- I'm sorry.</p> <p>4 With respect to dispersal warnings and the</p> <p>5 requirements regarding the use of chemical</p> <p>6 munitions, that's identified in the fourth topic;</p> <p>7 correct?</p> <p>8 A Yes.</p> <p>9 Q Have you yourself, in your individual</p> <p>10 -- strike that.</p> <p>11 As a corporate representative or in</p> <p>12 your individual capacity, have you actually ever</p> <p>13 seen the material -- specific underlying materials</p> <p>14 that Randy Jemerson uses to teach the elements laid</p> <p>15 out in the fourth bullet point here?</p> <p>16 A I did not.</p> <p>17 Q In preparing for today's deposition</p> <p>18 you didn't take the time to do that?</p> <p>19 A No.</p> <p>20 Q Do you know if he actually has any</p> <p>21 handwritten materials, any typed materials that he</p> <p>22 actually provides the members of the Civil</p> <p>23 Disobedience Teams to make sure they act in a</p> <p>24 constitutionally sound manner in issuing dispersal</p> <p>25 warnings and releasing chemical munitions at</p>	<p style="text-align: right;">Page 223</p> <p>1 of any other training materials used to train</p> <p>2 police officers about the use of chemical agents,</p> <p>3 about dispersal orders or unlawful assembly or any</p> <p>4 of the other topics we've discussed so far today;</p> <p>5 is that a fair summary?</p> <p>6 A That is a fair summary, I am not</p> <p>7 aware of anything other than what we've discussed.</p> <p>8 Q Thank you. We are going to the last</p> <p>9 topic and that is topics 18 through 24. So there</p> <p>10 is a large group there.</p> <p>11 A Yes.</p> <p>12 Q I will try and cover them here in the</p> <p>13 next maybe 45 minutes or so and we'll be done.</p> <p>14 (Plaintiffs' 30(b)(6) Exhibit 16</p> <p>15 marked for identification by the court reporter.)</p> <p>16 Q (BY MR. PRAISS) Mr. Larson, you've</p> <p>17 been handed what's been marked for identification</p> <p>18 purposes as Exhibit 16.</p> <p>19 Do you see that?</p> <p>20 A Yes.</p> <p>21 Q This is a Declaration by Charles Wall</p> <p>22 regarding Exhibit A, which is attached to his</p> <p>23 Declaration.</p> <p>24 Do you see that?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 222</p> <p>1 protesters?</p> <p>2 A I do not.</p> <p>3 Q Would it be a concern for you to find</p> <p>4 out that there are no such documents prepared and</p> <p>5 provided to the members of the Civil Disobedience</p> <p>6 Team?</p> <p>7 A It would be a concern; however, I</p> <p>8 know that in order to have an outline such as this</p> <p>9 prepared, that there would have to have materials</p> <p>10 that would support this outline in some way, shape,</p> <p>11 or form, and, therefore, I believe that there are</p> <p>12 -- that that is being -- that is occurring, that</p> <p>13 those training materials are available.</p> <p>14 MR. PRAISS: Go off the record a</p> <p>15 second.</p> <p>16 (Off the record.)</p> <p>17 Q (BY MR. PRAISS) Moving on. We had a</p> <p>18 long discussion between counsel, and you were</p> <p>19 present here to hear it. My question to you is,</p> <p>20 other than Exhibit 6, which is a presentation that</p> <p>21 was given to senior staff on August 16, '17, and</p> <p>22 the two-page outline used by Mr. Randy Jemerson</p> <p>23 that just highlights by topics all the things that</p> <p>24 he covers in the Civil Disobedience Team training,</p> <p>25 you, as a corporate representative, are not aware</p>	<p style="text-align: right;">Page 224</p> <p>1 Q And you identified early on today</p> <p>2 that Mr. Charles Wall was actually, if memory</p> <p>3 serves me correctly, the only individual other than</p> <p>4 attorneys that you met with to prepare for today's</p> <p>5 deposition; is that correct?</p> <p>6 A Yes.</p> <p>7 Q Okay. And in paragraph 2 Mr. Wall</p> <p>8 identifies that he is employed by the St. Louis</p> <p>9 City division of police and is current assigned to</p> <p>10 the police legal unit, and assist in discovery and</p> <p>11 related matters.</p> <p>12 Do you see that?</p> <p>13 A Yes.</p> <p>14 Q That's what you referenced here</p> <p>15 today; correct?</p> <p>16 A Yes.</p> <p>17 Q Gotcha. I want to focus on really</p> <p>18 the substance of Exhibit A in particular. Is to</p> <p>19 your knowledge, first of all, Mr. Wall the author</p> <p>20 of Exhibit A?</p> <p>21 A I believe he created the spreadsheet</p> <p>22 with possibly help from the IT department to</p> <p>23 identify these potential -- these incidents.</p> <p>24 Q Okay. Are you familiar with what</p> <p>25 records -- what records the City maintains that</p>

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1 were the source of all this information?

2 A I believe there were the records

3 management system, I/LEADS we've discussed was one

4 source. I believe there was a source from the

5 intelligence division/Real Time Crime Center that

6 contributed to this, and I also believe that there

7 were possibly information received from a CDT or

8 SWAT supervisor that had a list of incidents that

9 contributed to these.

10 Q You identified I believe three

11 different sources?

12 A Yes.

13 Q For each one, if you could go slower

14 for me and identify what that source was and what

15 type of information, if any, you believe that

16 source would have provided for any of the columns

17 identified in Exhibit A?

18 A Well, the -- the sources are -- I'm

19 going to do this rather generally at first. The

20 information, as far as detail summary, the units

21 involved, the disposition of arrests, things like

22 that, that all came from the records management

23 system.

24 The actual protests themselves, or,

25 we got two lists from the two groups, we compared

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1 them to the records management system or searched

2 parameters within the record management system, and

3 then created this list of potential -- of cases

4 that met the criteria of protest events based on

5 size.

6 Q Okay. I may follow up on that in a

7 few minutes, but let's keep going and I'll decide

8 how much more detail I need.

9 Am I correct the summary in Exhibit A

10 provides -- covers protests in the City from March

11 15, 2012, until the last one identified is July 24,

12 2018?

13 A Yes.

14 Q I want to go through the headings on

15 Exhibit A, and obviously the first one is Date. Am

16 I correct that just reflects the date of when that

17 particular protest took place?

18 A Yes.

19 Q Start Time, pretty self-explanatory,

20 it's the start time of the protest?

21 A Yes.

22 Q Location is where the protest took

23 place?

24 A Yes.

25 Q Okay. And Action Name. Who

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1 determined the name that's included in Exhibit A?

2 A I would assume Charlie Wall, that

3 Sergeant Wall did, or the -- from the original

4 list, the Action Name is the group that was

5 associated with the incident. So there's several

6 obviously different groups, that was the -- that's

7 how it would be determined the Action Name.

8 Q Okay. The next column is the number

9 of protesters. What information did Mr. Wall rely

10 on to come up with the numbers identified?

11 A The estimated numbers from the

12 reports and wherever we could glean that

13 information from. So most likely a records

14 management system.

15 Q The Details Summary column has more

16 language than other columns.

17 Do you see that?

18 A Yes.

19 Q And again, this was inputted by Mr.

20 Wall; correct?

21 A Yes.

22 Q Did anybody provide an input with

23 that, or what information did he use to describe

24 the details that he laid in?

25 A He would have used the information

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1 that was provided from the two lists, checking that

2 against the records management system, reviewing

3 the reports, and then creating a detail summary.

4 Q Okay. Police Manpower, where would

5 he have gotten that information?

6 A From the records management system,

7 who was involved.

8 Q Okay. When you say "records

9 management system," you used that phrase twice now.

10 What specifically are you -- what system are you

11 referring to?

12 A The I/LEADS reports.

13 Q I just wanted to make sure we were on

14 the same page. Thank you. Disposition includes

15 various information and level of detail. Where

16 would that information have come from?

17 A From the dispositions involving

18 arrests would have come from the I/LEADS report.

19 Q Okay. The Report number, what does

20 that refer to?

21 A That refers to the incident case

22 number that we were discussing earlier, the I/LEADS

23 report number that relates that specific incident,

24 the number is tied to that.

25 Q And so in some situations there is

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<p>1 only one, others there's a whole series of them.</p> <p>2 And again, how is that determined whether there's</p> <p>3 one or a series with respect to one protest?</p> <p>4 A The size of the event, the number of</p> <p>5 the arrests, the individual charges, how it, just</p> <p>6 it's determined on a case-by-case basis.</p> <p>7 Q Okay. How are those reports</p> <p>8 maintained by the City?</p> <p>9 A They're maintained within the I/LEADS</p> <p>10 system.</p> <p>11 Q So if I wanted a report identified</p> <p>12 here, how difficult would it be to locate it?</p> <p>13 A It would not be difficult at all.</p> <p>14 Q How difficult is it, if at all, to</p> <p>15 determine all of the applicable reports that</p> <p>16 correspond to a particular protest?</p> <p>17 A I'm a little confused by the</p> <p>18 question.</p> <p>19 Q Yeah. So when Mr. Wall was preparing</p> <p>20 -- putting this document and, let's say, take the</p> <p>21 first line item, Occupy Midwest, and the one dated</p> <p>22 March 15, '12.</p> <p>23 A Mm-hmm.</p> <p>24 Q How hard is it for him to run a</p> <p>25 search and locate all the applicable reports that</p>	<p>1 report is not prepared, a code might be given,</p> <p>2 responded to monitor protest, no police action</p> <p>3 needed, put me back in service. The P number is</p> <p>4 closed.</p> <p>5 But the P number is just there, I</p> <p>6 don't know if he was, what purpose he had it on</p> <p>7 that list for, if it was something he was going to</p> <p>8 go back and do or if -- if there was, if we decided</p> <p>9 not to follow up on that information.</p> <p>10 Q Very few of these entries have a P</p> <p>11 number referenced in this column.</p> <p>12 Do you see that?</p> <p>13 A Yes.</p> <p>14 Q Help me understand what is the</p> <p>15 significance of a P number that's identified on</p> <p>16 those few line items where it's present, and</p> <p>17 equally, what is the significance of the fact that</p> <p>18 there is no P number on the majority of them?</p> <p>19 A The majority of the P numbers, it</p> <p>20 appears from this list, don't have arrests</p> <p>21 associated with them. So we knew there was a</p> <p>22 protest, we monitored the protest, and no protest</p> <p>23 number or call for service.</p> <p>24 Now, I am also looking at, it looks</p> <p>25 like chronologically, the inclusion of the P number</p>
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<p>1 relate to that one? I guess different way of</p> <p>2 asking it is, when he came across the report number</p> <p>3 identified here, how does he know there aren't any</p> <p>4 other reports out there?</p> <p>5 A The search parameter, primarily from</p> <p>6 the IT department, information technology, would</p> <p>7 have put in specific parameters, keyword phrases</p> <p>8 keyword searches, protest, arrests, date and time.</p> <p>9 So once we could narrow down the date and time of</p> <p>10 particular incidents, we could run a search through</p> <p>11 the records management system, I/LEADS, we could</p> <p>12 search it by various parameters to determine that</p> <p>13 we have everything that's available.</p> <p>14 Q Good. The next column is P and a</p> <p>15 number sign. What does that stand for?</p> <p>16 A P and the number sign, I believe that</p> <p>17 would be the, quote, P number. So a P number is a</p> <p>18 number that is in our computer-aided dispatch</p> <p>19 network.</p> <p>20 So an officer is sent to a location.</p> <p>21 A P number is generated. P number associates that</p> <p>22 officer to the call for service. If there is a</p> <p>23 report written, obviously there is a complaint</p> <p>24 number drawn, complaint number is associated to a P</p> <p>25 number, and then the report is prepared. If the</p>	<p>1 becomes more prevalent in more recent time lines</p> <p>2 and it may have been to associate potential</p> <p>3 information with those, with these incidents</p> <p>4 internally.</p> <p>5 Q Let's look at the entry for the</p> <p>6 Stockley verdict protest on September 15, 2017.</p> <p>7 There is a long list of P numbers associated there.</p> <p>8 Do you see that? On the bottom of the page and</p> <p>9 it's page 4 of 9 of this filed with the court?</p> <p>10 A Yes.</p> <p>11 Q I'm just using that one as an example</p> <p>12 where --</p> <p>13 A Page 4 of 9. Yes. 9/15, yes, at the</p> <p>14 bottom of the page.</p> <p>15 Q And you see under the column</p> <p>16 associated with the P number, there is quite a few</p> <p>17 entries there; right?</p> <p>18 A Yes.</p> <p>19 Q If I was to get a copy of the first</p> <p>20 one, P1709150933, what would I be looking at?</p> <p>21 A You would be looking at a call log in</p> <p>22 the computer-aided dispatch that relates to a</p> <p>23 dispatch request.</p> <p>24 Q And what's the significance of having</p> <p>25 a P number in connection with a protest, if any?</p>

58 (Pages 229 to 232)



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1 A There is no -- I mean, we use P  
2 numbers for every police call for service.  
3 Q Okay. Is there -- can you think of a  
4 reason why Mr. Wall included this column and what  
5 significance, if any, does it have? Is what I'm  
6 trying to understand.  
7 A I think the significance is that a P  
8 number was located related to the incident.  
9 Q But the fact that the P number was  
10 referenced here has no significance in terms of  
11 what the police conduct was or what the protesters  
12 did or what level of force was used or any other  
13 issues?  
14 A No, I don't believe so.  
15 Q Simply a call to dispatch is all it  
16 is?  
17 A Yes.  
18 Q Okay. I think that more than enough  
19 covers the P number issue.  
20 (Off the record.)  
21 Q (BY MR. PRAISS) The last two columns  
22 there titled Resistance and Force. Do you see  
23 those, Mr. Larson?  
24 A Yes.  
25 Q What is your understanding of where

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1 Mr. Wall would have gotten the information that he  
2 included in those two columns?  
3 A That would have come from the I/LEADS  
4 reports that were created.  
5 Q Under the column involving Force, do  
6 you see some places identify the use of mace?  
7 A Yes.  
8 Q And other places identify the use of  
9 chemical munitions; correct?  
10 A Yes.  
11 Q Is there, for purposes of this chart,  
12 are those two terms mutually exclusive?  
13 A I would say for the purposes of this  
14 chart, they are not mutually exclusive. The  
15 chemical munitions relate -- would relate more to  
16 the launching the gas guns, the pepper balls, those  
17 type of things. When he has mace, that would be  
18 much more akin to the handheld canister.  
19 Q When he uses "mace," does it also  
20 encompass a situation where a fogger is used?  
21 A It could.  
22 Q Do you know one way or the other?  
23 Rather than could, does it, is my question?  
24 Because the word "mace" appears a lot in many  
25 instances and I'm trying to understand when he uses

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1 the word "mace," in his mind is he saying that's  
2 the use of the fogger, or the handheld, or both?  
3 A I would say that it is exactly that,  
4 it is mace. And it doesn't delineate which,  
5 whether it was the small canister or the high  
6 output canister, in the preparation of that. But  
7 it was separate from the chemical munitions being  
8 launched by SWAT.  
9 Q So when SWAT launches chemical  
10 munitions, using the different techniques that they  
11 have, that's under chemical munitions, and for  
12 purposes of this chart, when he uses the word  
13 "mace," it applies to mace regardless the manner in  
14 which it's deployed, whether it's a handheld device  
15 or a fogger; correct?  
16 A Yes.  
17 Q Gotcha. Thank you for that  
18 clarification. Every time there is a reference  
19 here to "mace" or "chemical munitions," am I  
20 correct that under the Special Order and I/LEADS  
21 report, was supposed to have been prepared?  
22 A An I/LEADS report should have been  
23 prepared.  
24 Q On this chart which record would  
25 identify I/LEADS report that corresponded that

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1 would reflect the use of mace or chemical munitions  
2 in connection with that protest?  
3 A The report number.  
4 Q So the report number is the key  
5 document if I'm interested to learn about the use  
6 of chemical munitions or mace for each protest?  
7 A Yes.  
8 Q Gotcha. Do you remember we looked a  
9 little before at that After Action Critique that  
10 you submitted?  
11 A Yes.  
12 Q You recall you were the only one who  
13 did so after the Stockley verdict? My question to  
14 you is, is there any reference on this chart that  
15 identifies whether or not an After Action Critique  
16 was issued and submitted by all of the detail  
17 commanders and supervisors with respect to the  
18 special/major events identified in these protests?  
19 A There is not a column for them.  
20 Q Okay. Am I correct that when it  
21 talks in the After Action Critique about the  
22 handling special/major events, that each of these  
23 protests would qualify as a special/major event?  
24 A Not necessarily. Some of these are  
25 pop up protests that we weren't prepared for that

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1 we had to respond quickly to. So an operations  
2 plan would not have been created if there was an  
3 operations plan for any of -- any of these, and I'm  
4 not presently aware which ones may have had one and  
5 which ones wouldn't. The larger ones would have  
6 had one if we were prepared for civil disturbance.  
7 **Q** So to have an operational planning  
8 document prepared, if I'm understanding correctly,  
9 the City has to have some kind of a notice that an  
10 event's going to happen and in that situation,  
11 subsequent to that event is when the detail  
12 commanders and supervisors are supposed to submit  
13 their After Action Critique; correct?  
14 **A** Yes.  
15 **Q** Okay. From your understanding of the  
16 systems used by the City, how difficult is it to  
17 search for and determine to what extent an  
18 operational plan was created for a particular  
19 protest that's identified here?  
20 **A** It would not be difficult. The  
21 operational planning unit would keep a record of  
22 the events that they have created details for and  
23 they would be on file.  
24 **Q** And how difficult would it be to  
25 determine whether or not all the detail commanders

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1 and supervisors submitted an After Action Critique  
2 after that event, assuming that there was an  
3 operational plan issued for --  
4 **A** It shouldn't be difficult because  
5 they would have been sent to operational planning  
6 for filing just as you received mine.  
7 (Off the record.)  
8 **Q** (BY MR. PRAISS) I'll give you my  
9 highlighter.  
10 **A** Okay. Thank you.  
11 **Q** I would appreciate -- I've gone and  
12 done my best but I doubt that I did a very good job  
13 so I need to you help me. Highlight those rows and  
14 as you go through it, identify on the record maybe  
15 some information, the date, for example, where  
16 officers issue a dispersal order and/or use  
17 chemical munitions or mace in connection with a  
18 protest that's outlined here. See what I'm asking  
19 to you do?  
20 **A** Yeah. You're asking for -- okay.  
21 **Q** Let's slow down. Let's make sure  
22 we're doing the same thing.  
23 **A** Mm-hmm.  
24 **Q** So the first one you identified,  
25 which I already unbelievably missed, is the second

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1 row, correct, where mace was used?  
2 **A** Yes.  
3 **Q** Okay. Please take a few seconds,  
4 we'll go off the record and identify and mark, for  
5 your benefit and mine, those incidents where you  
6 see dispersal orders issued over the PA, unlawful  
7 assembly declared, in the columns under Disposition  
8 and in the column under Force where it indicates  
9 that mace and chemical munitions were used. I'm  
10 going to focus on those.  
11 **A** Okay.  
12 (Off the record.)  
13 **A** Thank you, I believe I'm finished.  
14 **Q** (BY MR. PRAISS) Thank you, Mr.  
15 Larson, for doing that. It will make the  
16 questioning go much, much quicker, trust me.  
17 **A** I understand.  
18 **Q** You notice that on topics 18 through  
19 24 it uses the phrase "prior protests," which is a  
20 defined term; right? In the definitions section of  
21 the notice?  
22 **A** Correct.  
23 **Q** Okay. And it makes a distinction  
24 between those situations when individuals are  
25 protesting police conduct or are not; do you

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1 understand that?  
2 **A** Yes.  
3 **Q** So I have one other favor to ask of  
4 you. I'll give you my pen because it's red ink and  
5 take your time and go through all the rows and to  
6 the extent the particular protest, as the City's  
7 representative, you understand involve protesters  
8 challenging police conduct, find a way to write  
9 maybe the abbreviation I came up with just now of  
10 PPC, standing for protesting police conduct. So  
11 what I want is to have the City's understanding of  
12 which of these protests involved protesters  
13 protesting police conduct.  
14 (Off the record.)  
15 **A** Okay, I'm done.  
16 **Q** (BY MR. PRAISS) Thank you, Mr.  
17 Larson. Now this should be just an exercise of  
18 looking at your markings. If you look at the  
19 Exhibit A, that you've now highlighted and  
20 identified with the abbreviation PPC for protesting  
21 police conduct in applicable rows, for March 15,  
22 2012, until September 17, 2017, when the Stockley  
23 protest took place, during that time period, please  
24 let me know how many protests took place in the  
25 City of St. Louis where the police either declared

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<p>1 an unlawful assembly or issued a dispersal order in</p> <p>2 responding to a protest.</p> <p>3 A I'm sorry, both conditions need to be</p> <p>4 met?</p> <p>5 Q Either condition. No, no, either</p> <p>6 one.</p> <p>7 A Can you give that to me again?</p> <p>8 Because I want to make sure I marked this</p> <p>9 correctly.</p> <p>10 Q Okay. I'm looking for any protest</p> <p>11 from March 15, '12, the beginning, until the</p> <p>12 Stockley protest, where the police declared an</p> <p>13 unlawful assembly or issued a dispersal order.</p> <p>14 A Okay.</p> <p>15 Q So it will be in the column --</p> <p>16 obviously, we're looking under -- the times when</p> <p>17 you highlight the column under Disposition, and</p> <p>18 just count those for me.</p> <p>19 A Okay. If my math is correct, it</p> <p>20 appears to be 16 times dispersal orders were given.</p> <p>21 Q Okay. Again, my question was, either</p> <p>22 dispersal or an unlawful assembly. I'm combining</p> <p>23 the two. I'm not drawing a distinction.</p> <p>24 A That either a dispersal order or an</p> <p>25 unlawful assembly was committed.</p>	<p>1 where you have identified that the City declared an</p> <p>2 unlawful assembly or issued dispersal order, of</p> <p>3 those 15, how many have the abbreviation PPC for</p> <p>4 protests of police conduct included? Do you</p> <p>5 understand my question?</p> <p>6 A I do. I'm --</p> <p>7 Q Of the 15 you've just identified, how</p> <p>8 many have involved the public protesting the police</p> <p>9 conduct?</p> <p>10 A It looks like 12.</p> <p>11 Q Fair to say that the vast majority of</p> <p>12 the instances where the City, the police declare an</p> <p>13 unlawful assembly or issue a dispersal order, they</p> <p>14 involve situations where the public was protesting</p> <p>15 the police conduct?</p> <p>16 A I think that there's numerous</p> <p>17 explanations for that, but yes, based on the list</p> <p>18 that we've prepared and the questions that you've</p> <p>19 asked me, those things are -- yes.</p> <p>20 Q If you could do me a favor and refer</p> <p>21 back to your -- the Exhibit A, focusing again on</p> <p>22 the time period from March 15, 2012, up to and</p> <p>23 including the Stockley protests, identify the</p> <p>24 number of instances where the police used either</p> <p>25 chemical munitions or mace in responding to a</p>
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<p>1 Q Okay. So just so the record is</p> <p>2 clear, and I apologize, but from your review of</p> <p>3 your highlighting on Exhibit A, it's your testimony</p> <p>4 there appear to be 16 different instances from</p> <p>5 March 15, 2012, until September 17, 2017, when the</p> <p>6 City declared an unlawful assembly or issued</p> <p>7 dispersal order in responding to a protest; is that</p> <p>8 correct?</p> <p>9 A Yes, the number appears to be 16.</p> <p>10 Q I'm puzzled because I only came up</p> <p>11 with 13, but I believe you. You probably found</p> <p>12 instances I forgot to highlight, so I'm looking</p> <p>13 again at my work real quick. Looking for the words</p> <p>14 "dispersal order" or "unlawful assembly" under the</p> <p>15 column of Disposition and trying to get those added</p> <p>16 up.</p> <p>17 A This time I came up with 15.</p> <p>18 Q Okay. Let's go with your number.</p> <p>19 MR. DIERKER: You were talking about</p> <p>20 prior to September 15?</p> <p>21 MR. PRAISS: Up through including the</p> <p>22 Stockley protest.</p> <p>23 A And I counted through the entire</p> <p>24 list.</p> <p>25 Q (BY MR. PRAISS) And of those 15 rows</p>	<p>1 protest, and let me know how many instances you</p> <p>2 come up with.</p> <p>3 A I want to make sure I understand you</p> <p>4 correctly, sir.</p> <p>5 Q All I'm asking now is if you look at</p> <p>6 the use of Force column, use of Force and look for</p> <p>7 any situations where either "chemical munitions" or</p> <p>8 "mace" appears, and let me know how many rows you</p> <p>9 come up there.</p> <p>10 A Thirteen.</p> <p>11 Q Just to make sure we're referring to</p> <p>12 the same thing, it's your testimony that there is</p> <p>13 13 rows in Exhibit A where under the use of Force</p> <p>14 column the words "mace" or "chemical munitions"</p> <p>15 appear?</p> <p>16 A Yes.</p> <p>17 Q Okay. Of those 13, how many</p> <p>18 specifically identify chemical munitions, which you</p> <p>19 have explained is distinct in this case because of</p> <p>20 use, it's referring to deployment through the SWAT</p> <p>21 Team or -- but not of mace through a handheld</p> <p>22 device.</p> <p>23 A I believe 5.</p> <p>24 Q Going back to the original number you</p> <p>25 gave me of 13 instances where either mace or</p>

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<p>1 chemical munitions are referenced, of those, how</p> <p>2 many rows also include the abbreviation PPC that</p> <p>3 you've marked indicating that not only were</p> <p>4 chemical munitions or mace used but involved a</p> <p>5 protest where the public was protesting police</p> <p>6 conduct?</p> <p>7 A Five.</p> <p>8 Q Was there ever a Code 1200 in effect</p> <p>9 during the Stockley protests?</p> <p>10 MR. DIERKER: Object to form, lack of</p> <p>11 foundation.</p> <p>12 Q (BY MR. PRAISS) Do you understand my</p> <p>13 question, sir?</p> <p>14 A I do. I do believe you're asking if</p> <p>15 a formal Code 1200 was declared, and I know that we</p> <p>16 had mutual aide units involved, St. Louis City, the</p> <p>17 Highway Patrol, those would come under the auspices</p> <p>18 of a 1200. Whether we actually, quote, declared a</p> <p>19 1200, I can't say we did using that terminology but</p> <p>20 we did coordinate with St. Louis County, the</p> <p>21 Highway Patrol unit -- agencies, which would fall</p> <p>22 under an umbrella of a potential 1200.</p> <p>23 Q In order to bring in those resources,</p> <p>24 is it a prerequisite that you have to declare a</p> <p>25 Code 1200?</p>	<p>1 but I think we may be close to an end, if not</p> <p>2 already there.</p> <p>3 (Off the record.)</p> <p>4 MR. PRAISS: Mr. Larson, I very much</p> <p>5 appreciate your patience today and throughout this</p> <p>6 whole process. I have no further questions for you</p> <p>7 and thank you very much.</p> <p>8 MR. DIERKER: Well, regrettably, I do</p> <p>9 have a couple.</p> <p>10 MR. PRAISS: Which is always a risk</p> <p>11 that I may ask a bunch of new questions.</p> <p>12 (Off the record.)</p> <p>13 EXAMINATION</p> <p>14 QUESTIONS BY MR. DIERKER:</p> <p>15 Q So, Major, I would like to clarify</p> <p>16 for the record, we've talked about foggers in</p> <p>17 connection with mace, and is a fogger also known by</p> <p>18 another term?</p> <p>19 A It could be known by a streamer a</p> <p>20 high output mace.</p> <p>21 Q Okay. And that device, what is the</p> <p>22 difference between that device and the hand -- the,</p> <p>23 what I'll describe as the individual handheld</p> <p>24 device?</p> <p>25 A It's a larger container and it shoots</p>
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<p>1 A Not as a prerequisite. 1200, because</p> <p>2 this was more of a planned response to a proposed</p> <p>3 issue or potential issue, we would do that. The</p> <p>4 1200 is really an emergency operations all hazard</p> <p>5 plan for what we would do in the case of a</p> <p>6 spontaneous type event. So I can't tell you that</p> <p>7 we declared a 1200 in principle or verbiage but the</p> <p>8 spirit of having mutual aid was performed.</p> <p>9 Q Gotcha. Did the City consider the</p> <p>10 Stockley protest to constitute a 7250 at any point?</p> <p>11 MR. DIERKER: Objection, form, lack</p> <p>12 of foundation.</p> <p>13 A A 17250, as far as I believe -- is</p> <p>14 that the unlawful assembly? Or --</p> <p>15 Q (BY MR. PRAISS) The Jemerson</p> <p>16 training document I think refers to that?</p> <p>17 A Oh, you're talking about a 7250.</p> <p>18 Q Yes.</p> <p>19 A A barricaded subject. I'm sorry.</p> <p>20 No, it would not have fallen under the barricaded</p> <p>21 subject type of incident command.</p> <p>22 Q Gotcha. Okay.</p> <p>23 A Sorry for misunderstanding.</p> <p>24 Q No, I'm happy we clarified it. Give</p> <p>25 me one second to ask my colleague here a question</p>	<p>1 a stream farther, dissipates.</p> <p>2 Q And as far as its usage, is its usage</p> <p>3 -- when would an officer use a streamer as opposed</p> <p>4 to the smaller handheld device?</p> <p>5 A The -- they would use the -- a</p> <p>6 sergeant or above would be issued the larger</p> <p>7 device. It would be used as -- the same as the</p> <p>8 handheld device but when you need a greater range.</p> <p>9 Q So it would depend on the</p> <p>10 circumstances in which the officer feels that it</p> <p>11 needs to be deployed against an individual or more</p> <p>12 than one individual?</p> <p>13 A Potentially, yeah, it's used</p> <p>14 primarily with crowd dispersal and crowd control.</p> <p>15 Q Okay. I'd like to call your</p> <p>16 attention to Deposition Exhibit 14 and I'd like to</p> <p>17 call your attention to what's Bates stamped CITY</p> <p>18 00421. Can you read the headings?</p> <p>19 A The heading is Civil Disobedience</p> <p>20 Response Protocols.</p> <p>21 Q And what circumstances does that</p> <p>22 address, in summary?</p> <p>23 A In summary, it's a outline or</p> <p>24 guideline for the protocols that will be used</p> <p>25 during a civil disobedience event.</p>

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<p style="text-align: right;">Page 249</p> <p>1 <b>Q And any specific protocol or</b>  2 <b>circumstance that it's designed for?</b>  3 A I mean, I'm not sure I understand  4 your question, sir.  5 <b>Q I'll rephrase it. To what extent, if</b>  6 <b>any, does it pertain to dispersal orders or</b>  7 <b>announcements?</b>  8 A Oh, it talks about the importance of  9 respecting the individuals' First Amendment rights  10 and that law violations and dispersment issues are  11 given appropriately, that warnings need to be  12 given, we need to allow for the appropriate time  13 for persons to vacate the area, and then afterward,  14 the appropriate time, an incident commander or  15 operation commander can indicate that arrests will  16 need to be made for violations of law.  17 <b>Q And with regard to the shorthand</b>  18 <b>terminology of "kettle," I would like to refer you</b>  19 <b>to page CITY 00427 in Exhibit 14, if you could read</b>  20 <b>the headings on that?</b>  21 A The Civil Disobedience Team -- Civil  22 Disobedience Team Arrest Procedure.  23 <b>Q Is there another heading below that?</b>  24 A Next is Civil Disobedience Hand-Off  25 Team.</p>	<p style="text-align: right;">Page 251</p> <p>1 <b>whom?</b>  2 A The software is licensed from the  3 Genetec company who is currently assisting us  4 trying to resolve the issue with the corrupted  5 data.  6 MR. DIERKER: If I could huddle with  7 Andrew for just a second?  8 (Off the record.)  9 MR. DIERKER: Nothing further.  10 RE-EXAMINATION  11 QUESTIONS BY MR. PRAISS:  12 <b>Q I have a series of new questions for</b>  13 <b>you, my friend. I'm sorry.</b>  14 A I knew you did.  15 <b>Q And going in reverse order, the last</b>  16 <b>series of questions dealt with video, that is, I</b>  17 <b>believe, topic 25 of your deposition, the one that</b>  18 <b>you were unable to -- the City's unable to retrieve</b>  19 <b>at this point; you understand that?</b>  20 A Correct. I believe we provided a  21 file in all of the files that we have provided and  22 it was determined that we have -- that that file  23 was not functioning properly.  24 <b>Q It's the only file from the only</b>  25 <b>camera that we cannot access; you understand that?</b></p>
<p style="text-align: right;">Page 250</p> <p>1 <b>Q And in your understanding, does that</b>  2 <b>address the situation where arrests from one to far</b>  3 <b>more than one would have to be dealt with?</b>  4 A Yes.  5 <b>Q I would like to put on the record</b>  6 <b>that when we had a recess, did we undertake to try</b>  7 <b>to get some answers to the camera maintenance</b>  8 <b>issues that were raised earlier?</b>  9 A Yes.  10 <b>Q And is it your understanding -- what,</b>  11 <b>if anything, is your understanding as to who</b>  12 <b>maintains the camera at 14th and Locust?</b>  13 A The maintenance of the camera would  14 be the street department, City of St. Louis. That  15 was the agency I alluded to in my prior testimony  16 as working with us who maintains the camera. I  17 wasn't sure -- I wasn't 100 percent sure it was the  18 street department and I didn't want to state that  19 without having that confirmed knowledge.  20 <b>Q And with regard to the video that's</b>  21 <b>actually recorded, is that a matter of software or</b>  22 <b>hardware?</b>  23 A My understanding is it is a matter of  24 software, not hardware.  25 <b>Q And the software is maintained by</b></p>	<p style="text-align: right;">Page 252</p> <p>1 A My understanding was that there were  2 two files from that particular camera on two  3 different dates that couldn't be accessed.  4 <b>Q But it's that one camera I meant to</b>  5 <b>say?</b>  6 A Yes.  7 <b>Q It's only one camera among all the</b>  8 <b>cameras that were used to record the Stockley</b>  9 <b>protest for which -- which is critical in our eyes</b>  10 <b>but, coincidentally, we don't have the ability to</b>  11 <b>view what it recorded. You do understand that's</b>  12 <b>what we're talking about?</b>  13 A I do.  14 <b>Q And it sounds like at some point</b>  15 <b>during the break you made some inquiries about that</b>  16 <b>subject; correct?</b>  17 A Yes.  18 <b>Q Who did you call?</b>  19 A We talked with Lieutenant Brent Feig  20 of the intelligence division, Real Time Crime  21 Center.  22 <b>Q Okay. And did you ask him if there</b>  23 <b>was any written communications between anybody on</b>  24 <b>the City side and Genetec with respect to the</b>  25 <b>circumstances relating to the malfunction of this</b></p>



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1 particular camera and the fact that these video  
2 recordings are not retrievable?  
3 A I did not ask him that.  
4 Q Okay. Is there a reason why you  
5 didn't?  
6 A No. I mean, I know that we're  
7 working on trying to get a resolution to this one  
8 way or the other, but no, I did not.  
9 Q So sitting here today you still have  
10 no knowledge, no different than it was many hours  
11 before we were here today, in terms of at what  
12 point in time somebody first realized that that  
13 camera was malfunctioning back around September 15,  
14 2017?  
15 A No.  
16 Q Okay. Is it fair to say that,  
17 sitting here today as the representative of the  
18 City on topic 25, you are making an assumption that  
19 the camera never recorded rather than that the  
20 recording was somehow lost subsequent to?  
21 A No, based on my inquiry into the  
22 topic, there is data present in the file.  
23 Therefore, the belief is that something was  
24 recorded and that somehow the software has not  
25 either adequately recorded it or -- for play back,

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1 that's what the whole process is, the investigation  
2 is ongoing trying to determine what is there and is  
3 it recoverable, but there is data present is what I  
4 am told.  
5 Q And at this point, do you know one  
6 way or the other if at any time since September of  
7 2017, that camera has consistently, up until the  
8 last few weeks, malfunctioned consistently and  
9 never been able to record for the same software  
10 problem that you reference or, to the contrary,  
11 somewhere along the line somebody realized there  
12 was a problem and they fixed the camera?  
13 A I don't have that answer.  
14 Q Okay. Counsel asked you a series of  
15 questions about Exhibit 14, the OPs plan?  
16 A Yes.  
17 Q Do you have that?  
18 A Yes.  
19 Q Again, I'll work backwards. I think  
20 the last sequence of questions dealt with what's on  
21 Bates number CITY 427 and 428. I'll let you catch  
22 up with me.  
23 A Okay. 427, 428.  
24 Q Am I correct the headings on page 427  
25 in that situation deals with a Civil Disobedience

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1 Team Arrest Procedure and Civil Disobedience  
2 Hand-Off Team 1?  
3 A Yes.  
4 Q Am I correct neither of those  
5 subjects have anything to do with the use of  
6 chemical agents, dispersal orders, or unlawful  
7 assemblies?  
8 A No. That's correct.  
9 Q Okay. And if you go, please, to the  
10 other page that you were directed to, I believe  
11 it's CITY Bates number 421 and 422, and am I  
12 correct the heading for that section is Civil  
13 Disobedience Response Protocols?  
14 A Yes, that is correct, sir.  
15 Q Okay. Am I correct that the sum and  
16 substance of that section under Civil Disobedience  
17 Response Protocols is five paragraphs, about half a  
18 page?  
19 A That is an appropriate description,  
20 sir.  
21 Q Am I correct that the phrase -- the  
22 terms "unlawful assembly" and "failure to disperse"  
23 appear only one time in a parenthetical on the  
24 bottom of CITY 421?  
25 A Yes.

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1 Q Am I correct there is nothing in this  
2 section in terms of protocols explaining or  
3 providing guidance under what circumstance, if any,  
4 unlawful assembly or failure to disperse should be  
5 made by police officers?  
6 A I'm sorry, you lost me, but I --  
7 Q I'll ask it again.  
8 A Please. Thank you.  
9 Q Am I correct that, other than the  
10 fact that the terms "unlawful assembly" and  
11 "failing to disperse" appear in a parenthetical,  
12 there is nothing in the section that we're looking  
13 at, the Civil Disobedience Response Protocol, that  
14 advises police officers under what circumstance  
15 they can declare an unlawful assembly or issue a  
16 failure to disperse declaration?  
17 A Yes.  
18 Q There is no such, nothing else;  
19 correct?  
20 A There is nothing there that  
21 references that.  
22 Q Am I correct there is nothing in this  
23 section under Civil Disobedience Response Protocols  
24 that in any way mentions the -- under what  
25 circumstance, if any, it's appropriate to use

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1 chemical agents, whether it's handheld pepper spray  
2 or other chemical agents?  
3 A No, I don't believe so.  
4 Q Okay. And then finally, there was a  
5 reference at the very beginning of the questioning  
6 from counsel about the term "foggers"; do you  
7 recall?  
8 A Yes.  
9 Q And you said that there is a name for  
10 it also as streamers?  
11 A Some officers refer to it as  
12 streamers. I think there is a lot of confusion on  
13 the -- on the topic itself because people tend to  
14 use different nomenclature for similar items.  
15 Q Okay. And that's what I'm trying to  
16 focus on. There is only one actual object, whether  
17 it's called a fogger or a streamer, there's not  
18 different types, it's one device --  
19 A Right.  
20 Q -- that deploys pepper mace at a very  
21 high rate and over a larger area; correct?  
22 A Yes.  
23 Q Okay. Because the questioning made  
24 me at least confusingly understand that you were  
25 suggesting there is different types, and that's

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1 incorrect?  
2 A No, it's one particular. There's the  
3 handheld canister and the high output, which is  
4 called by multiple different names.  
5 Q Regardless of what name it's called,  
6 is it fair to say that the high output fogger, by  
7 its nature, disperses a greater amount and over a  
8 larger area of pepper spray than the handheld  
9 device?  
10 A I think it launches pepper spray at a  
11 greater distance.  
12 Q But also not only at a greater  
13 distance but over a wider range?  
14 A It could spread, I would assume.  
15 Q It's not necessarily -- you're not  
16 telling me it's designed to only fire a very narrow  
17 stream that goes a longer distance; it also has the  
18 capability and it does in fact spray over a wider  
19 range than a handheld device?  
20 A I don't have an answer as far as like  
21 I feel like you're asking a very technical question  
22 about the stream. It goes out. It goes out at a  
23 distance. As it's going out, it could disperse and  
24 -- but as far as that goes, that's the best answer  
25 I can give you.

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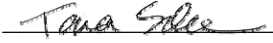
1 Q Okay. And do you recall very early  
2 on today we looked at, for example, what we marked  
3 at Exhibits 8 and 9 of your deposition. In  
4 particular Exhibit 8, do you recall you testified  
5 that there is a significant area that -- it's in  
6 the light blue color -- that is indicative of a  
7 very large spray range, based on the use of a  
8 fogger is what it appears to be?  
9 A Potentially based on the fact that  
10 that's assuming that this is in fact that that  
11 cloud is an OC mace chemical.  
12 Q Can you think of anything else that  
13 was used by the police in connection with the  
14 kettle that would generate that kind of a spray  
15 mist over a group of people?  
16 A No, I cannot, other than inert smoke  
17 perhaps, but I don't believe that that would be  
18 applicable.  
19 Q You would not use inert smoke -- gas  
20 with a group of people surrounding you?  
21 A No, generally not.  
22 MR. PRAISS: I have no further  
23 questions.  
24 MR. DIERKER: I think for the record,  
25 we already made it clear that there were some loose

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1 ends that we need to tie up and produce some  
2 additional documents, and because there was some  
3 duplication in topics between this case and the  
4 Molina case, we are anticipating a further 30(b)(6)  
5 deposition involving the Molina case primarily, but  
6 I just want to put on the record that we are  
7 agreeing that the additional materials that are  
8 provided in connection with this case can be the  
9 topic of further deposition at the time of the  
10 Molina 30(b)(6).  
11 MR. PRAISS: Since you're putting  
12 this on the record, I'll ask one point question. I  
13 mean, I am here and clearly I would love to wrap up  
14 this issue about the training. And my  
15 understanding, Andrew, from what you said, is that  
16 you followed up and determined that there is in  
17 fact additional training materials, a PowerPoint.  
18 And my question is, I'm happy to wait  
19 a few minutes. If you have access to it right now,  
20 I would ask let's print it out and let me ask the  
21 witness some questions rather than waiting a month.  
22 It makes no sense. I'm here, Jessie's here, and I  
23 think that document is -- it's a single document.  
24 It's very different than everything else that was  
25 encompassed in your statement.

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<p>1 So if you have it right now, let's</p> <p>2 print it out, no different than all the ones you've</p> <p>3 printed out so far today. I can wait a few</p> <p>4 minutes.</p> <p>5 MR. WHEATON: That was my hope and I</p> <p>6 requested that it be sent as soon as possible.</p> <p>7 Unfortunately, I don't have these additional</p> <p>8 materials yet. I don't anticipate having them</p> <p>9 within the next few minutes. I do anticipate</p> <p>10 having them within the next few days.</p> <p>11 MR. PRAISS: I'm sorry to hear that.</p> <p>12 With that in mind, I have no further questions.</p> <p>13 THE REPORTER: Signature?</p> <p>14 MR. DIERKER: We'll read and sign.</p> <p>15 (Wherein, the taking of the instant</p> <p>16 deposition ceased at 5:24 p.m.)</p> <p>17 (Deposition to be read and signed by</p> <p>18 the witness.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 ALARIS LITIGATION SERVICES</p> <p>2</p> <p>3 April 12, 2019</p> <p>4</p> <p>5 Mr. Robert Dierker</p> <p>6 OFFICE OF THE CITY COUNSELOR</p> <p>7 1200 Market Street, Room 314</p> <p>8 St. Louis, Missouri 63103</p> <p>9</p> <p>10 IN RE: MALEEHA AHMAD, et al. v. CITY OF ST. LOUIS,</p> <p>11 MISSOURI</p> <p>12 Dear Mr. Dierker:</p> <p>13</p> <p>14 Please find enclosed your copies of the deposition of</p> <p>15 ERIC LARSON taken on April 8, 2019 in the</p> <p>16 above-referenced case. Also enclosed is the original</p> <p>17 signature page and errata sheets.</p> <p>18</p> <p>19 Please have the witness read your copy of the</p> <p>20 transcript, indicate any changes and/or corrections</p> <p>21 desired on the errata sheets, and sign the signature</p> <p>22 page before a notary public.</p> <p>23</p> <p>24 Please return the errata sheets and notarized</p> <p>25 signature page within 30 days to our office at 711 N</p> <p>11th Street, St. Louis, MO 63101 for filing.</p> <p>Sincerely,</p> <p>TARA SCHWAKE</p> <p>Enclosures</p>
<p>Page 262</p> <p>1 CERTIFICATE OF REPORTER</p> <p>2</p> <p>3 I, TARA SCHWAKE, a Registered</p> <p>4 Professional Reporter and Notary Public within and</p> <p>5 for the State of Missouri, do hereby certify that</p> <p>6 the witness whose testimony appears in the</p> <p>7 foregoing deposition was duly sworn by me; that the</p> <p>8 testimony of said witness was taken by me to the</p> <p>9 best of my ability and thereafter reduced to</p> <p>10 typewriting under my direction; that I am neither</p> <p>11 counsel for, related to, nor employed by any of the</p> <p>12 parties to the action in which this deposition was</p> <p>13 taken, and further that I am not a relative or</p> <p>14 employee of any attorney or counsel employed by the</p> <p>15 parties thereto, nor financially or otherwise</p> <p>16 interested in the outcome of the action.</p> <p>17</p> <p>18 </p> <p>19 Notary Public in and for</p> <p>20 The State of Missouri</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 264</p> <p>1 ERRATA SHEET</p> <p>2 Witness Name: ERIC LARSON</p> <p>3 Case Name: MALEEHA AHMAD, et al. v. CITY OF ST. LOUIS,</p> <p>4 MISSOURI</p> <p>5 Date Taken: APRIL 8, 2019</p> <p>6</p> <p>7 Page # _____ Line # _____</p> <p>8 Should read: _____</p> <p>9 Reason for change: _____</p> <p>10</p> <p>11 Page # _____ Line # _____</p> <p>12 Should read: _____</p> <p>13 Reason for change: _____</p> <p>14</p> <p>15 Page # _____ Line # _____</p> <p>16 Should read: _____</p> <p>17 Reason for change: _____</p> <p>18</p> <p>19 Page # _____ Line # _____</p> <p>20 Should read: _____</p> <p>21 Reason for change: _____</p> <p>22</p> <p>23 Page # _____ Line # _____</p> <p>24 Should read: _____</p> <p>25 Reason for change: _____</p> <p>Witness Signature: _____</p>

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1 STATE OF \_\_\_\_\_)

2

3 COUNTY OF \_\_\_\_\_)

4

5 I, ERIC LARSON, do hereby certify:

6 That I have read the foregoing deposition;

7 That I have made such changes in form

8 and/or substance to the within deposition as might

9 be necessary to render the same true and correct;

10 That having made such changes thereon, I

11 hereby subscribe my name to the deposition.

12 I declare under penalty of perjury that the

13 foregoing is true and correct.

14 Executed this \_\_\_\_\_ day of \_\_\_\_\_,

15 20\_\_\_\_, at \_\_\_\_\_.

16

17

18

19

20

ERIC LARSON

21

22

23

NOTARY PUBLIC

24

My Commission Expires:

25

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